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Penitentiary Law: Phenomenology and Consistency

ROMAN A. ROMASHOV
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, romashov_tgp@mail.ru, https://orcid.org/0000-0001-9777-8625

Abstract

Introduction: law as a systemic phenomenon is represented by 2 theoretical models: a dynamic process and a static construction. Law in dynamics is interrelated stages that together make up the phenomenon of legal life. A constructive (legal and technical) approach to understanding law presupposes its perception as a set of interrelated and interacting means created and used to streamline and protect public relations that have developed at a certain historical stage in a separate socio-cultural environment. Interchangeability of the words "law" and "legislative act" in the Russian legal language causes confusion of the concepts "system of law" and "legislative system", which results in terminological identification of the categories "branch of law" and "branch of legislation". The problem of understanding penitentiary law and determining its place in the legal system and the legislative system should be solved taking into account the cyclical nature of Russian political and legal genesis. In modern Russia, introduction of the word "penitentiary" into terminology is connected, on the one hand, with the desire to Europeanize traditional legal institutions by simply renaming them (penal law – penitentiary law). On the other hand, the use of the term "penitentiary" in relation to the system of execution of criminal penalties, as well as to the totality of legal acts regulating public relations in this area, is intended to show transformation of punishment from the institution of state repression into a means of correction and prevention. *Purpose*: to carry out a systematic analysis of law as a dynamic process and a formalized structure, with an emphasis on understanding penitentiary law and determining its place in legal and legislative systems. The *methodological basis* is formed by general scientific (systemic, structural, functional), private (comparative legal analysis, intersectoral synthesis, legal systematics) and special (theoretical and legal modeling, cyclic political and legal genesis) legal reality cognition methods. *Conclusions*: consideration of penitentiary law should be carried out in the context of correlation of the categories: system of law, legal system,

system of legislation. Taking the method of cyclic political and legal genesis as a basis, it is proposed to consider penitentiary law with regard to the specifics of organization and functioning of the penal systems of the Russian Empire, Soviet Russia (RSFSR/USSR) and the Russian Federation. In modern Russia, penitentiary law is an intersectoral normative community that unites legal acts regulating public relations in the field of penitentiary life. It makes no sense to talk about penitentiary law as a newly formed branch of the system of law, due to the perception of the latter as an objective category (logical speculative construction). At the same time, penitentiary law, penitentiary system, penitentiary science are well-established terminological constructions filled with various semantic connotations both in scientific research and legal acts.

Keywords: system of law; legal system; legislative system; penitentiary; penitentiary law; penitentiary science; penal system.

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Introduction

Problems of understanding and system analysis of law are among the eternal ones and attract attention of legal scholars working both in the field of the general theory of law and branch and applied jurisprudence. At the same time, often, “branch specialists” and “applied scientists”, considering theoretical issues, neglect the general theory, using their own visions as basic foundations to build further reasoning, including critical ones.

Identification of new branches in law, including of *intersectoral* (emphasis added) character, represents a technical and legal innovation of post-Soviet law, with its permanent changeability, characteristic of both the current sectoral legislation and the theory of the system of law. Therefore, some authors’ proposal to identify penitentiary law as a branch of the modern Russian law do not contain a fundamental novelty and do not qualitatively differ from similar aspirations to substantiate the independent sectoral status of mining, medical, educational, or railway law.

Without trying to challenge the points of view expressed, considering them permissible, due to the subjective nature of the process of scientific cognition itself, the author within the framework of the proposed article will try to show features of considering penitentiary law in the context of the general theory of systemic understanding of law and compare categories, such as a system of law, a legal system, and a system of legislation.

Reasoning will be based on the method of cyclical political and legal genesis, in accordance with which penitentiary law, in terms of general theory, is an objectified category that arises simultaneously with the organizational and functional design of a specialized state system to execute criminal penalties and changes with it.

Consistency as a universal feature of law

Law as a socio-cultural phenomenon is at the same time a dynamic process (law-making and law-realization) and a construction (a set of structural and functional elements).

Consistency of law as a process represents an alternation of legal life stages. Any legal form once arises, acquires and loses its legal force, has an ambiguous regulatory and protective effect on public relations.

The constructive (legal and technical) approach to understanding law presupposes its perception as a set of interrelated and inter-

acting means created and used to streamline and protect public relations that have developed at a certain historical stage in a separate socio-cultural environment.

The system characteristic of law dynamics assumes two main approaches: linear (traditional) and cyclic (discrete).

Linearity means that law preserves legal force in terms of values, principles, technologies of law-making and law-realization activity, which are fixed by the legal tradition. At the same time, it is possible to talk about a legal tradition that has taken place only when the above-mentioned values, principles and technologies remain relatively unchanged in three or more successive human generations, whose representatives act as subjects of law-making and law-realization relations.

Cyclicity (discreteness) of law means that individual stages of legal life are essentially different lives, each of which is associated with a qualitatively different paradigm of legal understanding from the previous one, and its (law) structural and content characteristics. At the same time, just as in human life, where the generation of fathers can leave a generation of children both positive (real estate items, financial assets, good name, etc.) and negative (debts, memory of crimes and betrayals committed by their ancestors, etc.) legacy, or nothing in principle, provided that the same generation of children (descendants) either did not appear at all, or refused in its dynamics from the experience accumulated by the fathers. Phases (stages) of conditional birth, growing-up, adulthood, aging, and death are necessarily represented in each completed cycle of legal life, as well as in any other life form. In cyclic (discrete) law, each subsequent legal cycle is based on the denial of historical experience of the previous one. Regardless of whether such denial is recognized at the state level or, on the contrary, the state in the person of its founding fathers proclaims the eternity of its own foundations, drawing a historical line from the modern state into the mists of time of a single and, very importantly, inseparable state history, each subsequent legal cycle acts as a gravedigger of the preceding one and puts its birth in direct dependence on the completion of an earlier stage of development, similar to biological death. With regard to the systemic dynamics of Russian law, the above means that the fact of the emergence of the Soviet socialist state and law was due to collapse of the state-legal system of imperial Russia. In turn, the modern post-Soviet Russian state-legal system was formed due to destruction of the Soviet analogue. Within the framework of each of these cycles, two of which (imperial and Soviet) are complete (closed), and the existing (post-Soviet) – current, there were and are qualitatively different ideas about both the legal phenomenon itself (law-understanding) and its constructive system.

The systematic nature of the law, understood as an established, formed structure, in relation to cyclic law genesis, suggests that there is no single idea of the law unchanged for various discrete cycles, and there cannot be.

In the Russian Empire, law, on the one hand, is the will of the reigning monarch (the Emperor of All Russia, owner of the Russian land), on the other – the tradition of the "Russian world", represented at its core by a rural community bound by mutual responsibility, or – the eternal belief in some kind of justice, with simultaneous disbelief to the official and the state law, since one law is for the rich, and another for the poor.

In Soviet Russia, law is the will of the ruling class – the working people (working class, collective farm peasantry and working intelligentsia, united in the "indestructible bloc of communists and non-party"), elevated into law. Soviet socialist law is opposed to bourgeois (Western) law and based on qualitatively different value priorities and principles of construction and functioning from the latter.

In modern Russia, law is a complex of formal legal acts and processes emanating from the state, expressing the will of *the entire* (emphasis added) people of Russia, based on values and principles of natural law and based in their construction on the basic value – a person, his/her rights and freedoms (Article 2 of the 1993 Constitution of the Russian Federation).

The difference in approaches to understanding of law entails a difference in ideas about the system of law, perceived simultaneously as a theoretical abstraction – a specu-

lative logical construction and a phenomenon of socio-cultural reality that has developed in a certain nation, at a certain historical stage – living law.

Summarizing the above, it should be concluded that any reasoning about the consistency of law should be carried out, first, based on the differentiation of the dynamics and statics of legal matter, and, second, taking into account the specifics of legal phenomenology and functionality within certain cycles of political and legal genesis.

System of law and system of legislation

Relationship between the concepts "law" and "legislative act", as well as their derivatives – system of law and legislative system, is among the most discussed in both general theoretical and branch legal sciences. Moreover, researchers are often misled by the unity in the names of concepts that differ significantly from each other both in the form of external expression and content. In the Russian language, the words "law" and "right" can both be identified and contrasted, which is not possible, for example, in the Anglo-American legal and linguistic tradition, where these words denote qualitatively different categories.

The system of law is a purely theoretical construction that does not directly depend on a certain socio-spatial-temporal continuum. Within the framework of the latter, a system of national legislation and a national legal system are being formed and functioning.

The system of law characterizes law as a separate structure that arises, in a formal legal sense, simultaneously with the state (by the way, from the same moment we should talk about the appearance of phenomena of crime and criminality) and transforms with it. In the general theoretical understanding of the legal system, it is advisable to distinguish only three branches: public positive (mandatory), public negative (prohibitive) and private (permissive) law. The proposed approach is conditioned by three basic means of legal influence: prohibition, obligation and permission. These means, of course, in various proportions form legal systems in all the states that have ever existed and exist.

In the 1930s, 1950s and 1980s Soviet legal science, discussions on the criteria of branch division in law pursued the goal not to consider the problems indicated in their name, but more global issues related to understanding and structuring of Soviet socialist law, opposed to the bourgeois "pseudo-law", developed in the countries of the capitalist West, at that time opposed to the collective socialist East. Moreover, as most researchers note, within the framework of the first discussion, its participants were engaged not so much in branch division, as in solving the question of a new characteristic of law in terms of its substantive organization [6]. Soviet scientists faced the task to substantiate the transition from revolutionary law and revolutionary legality of the initial stage of constructing the proletariat dictatorship state to socialist law and socialist legality of the workers' democracy state. Unlike the Russian Empire's theory of law, based on basic principles of traditional European (bourgeois) law, the Soviet legal theory categorically rejected division of law into public and private, believing that there should be nothing "private" in the state of a new historical type, including law. Thus, the pragmatic meaning of the discussion of the 1930s was reduced to sectoral structuring of Soviet socialist law and defining the subject and method of sectoral regulation.

The discussion of the 1950s was aimed at a more thorough study and adaptation of a systematic approach to humanitarian studies in general and legal science in particular. It generated a legal category "system of law" in its modern sense [6]. At the same time, the most acute controversy was caused by issues related to the discussion of the subject of legal regulation in the field of civil law, deprived in the conditions of the Soviet period of the opportunity to operate with such significant categories as private property, private entrepreneurial activity, commercial activity, etc.

Speaking about the third discussion that unfolded in the 1980s, it seems appropriate to quote words of one of V. Tsoi's songs: "Changes, we are waiting for changes ...". The deep crisis that was clearly identified in this historical period led to the desire to find a legal solution related to optimization of the state legal system, which at that time was clearly unable to overcome the emerging challenges and threats that ultimately led to the collapse

of the USSR and destruction of the world system of socialist law. At the same time, the participants of the discussion, in their arguments, tried to adapt the rapidly aging dogmatic Soviet socialist law to innovations of the continuously changing socio-legal reality.

The conducted comparative analysis shows that, in essence, the debates of that time were devoted not to theoretical concepts and principles characterizing the legal system as a whole and its individual constituent elements (institutions, sub-sectors, arrays) in particular, since they were widely known, used both in scientific circulation and practice and did not cause much controversy, but to determination of the numerical composition of separate branches of law and justification of the need to include the new ones in the existing system. However, this approach involved confusion of "theoretical" branches of law with "practical" branches of legislation. Accordingly, it actualized the issue of identifying correlation between concepts of the system of law and the system of legislation within the framework of the national legal system of Russia. In the modern Russian theory of law, these concepts are correlated as content and form; abstract and concrete; theoretical and practical. The system of law is a theoretical model of the normative structuring of law, regardless of its national-historical specifics. The approach to understanding law as a normative macrosystem is based on determination of the primary element – the rule of law, the logical structure of which (disposition – a standard of prohibited, mandatory, possible behavior; hypothesis – conditions ensuring implementation of a behavioral standard defined in the disposition; sanction – legally significant consequences of implementation of the corresponding behavioral standard), essentially coincides with the structuring of law as a logical abstraction. It is for this reason that it is advisable to distinguish only 3 branches in the theoretical system of law. As mentioned earlier, this is a public positive (binding), public negative (prohibitive) and private (permissive) law. As for separation of other branches, we do not mean law, but legislation; changes in the field of legislative regulation triggered formation of new branch directions. Scientific specialties were consolidated in accordance with the Decree of the Ministry of Education and Science No. 118 of February 24, 2021. All branch areas of scientific research in jurisprudence were reduced to five groups: theoretical and historical legal sciences, public legal (state legal) sciences; private legal (civil legal) sciences; criminal legal sciences; international legal sciences. With the first and fifth groups being removed from the above list (the first – due to the general legal nature, and the fifth – due to qualitative difference between international and national law), we get the same three-part structure of the legal system mentioned earlier.

As for the legislative system, it is indeed constantly changing both in terms of an increasing number of branches, and in terms of content. Unlike the system of law, which represents an objective category existing, as already noted, regardless of the specifics of the state structure and national-historical cultural characteristics, the system of legislation, its structural and content composition, is formed by the state. The list of branches of Russian legislation was previously fixed by the Decree of the President of the Russian Federation No. 2171 of December 16, 1993 "On the general legal classifier of legislation branches". Nowadays the Decree of the President of the Russian Federation No. 511 of March 15, 2000 "On the classifier of legal acts" determines crucial subjects of legislative regulation, on the basis of which the relevant branches of legislation are formed.

The observed confusion of the concepts of branch of law and branch of legislation, caused primarily by the terminological interchangeability of the terms in the Russian language, leads to the situation when speaking about the emergence of new branches of law, the authors mean branches of legislation of the same name, or rather legal acts united by certain subjects of legislative regulation. So, it is widely discussed whether advertising law, sport law, transport law, urban planning law, etc. should be considered as new branches of law. In addition, as independent branches of law, some authors propose to consider generalities of legal acts regulating certain types of legally significant activities, considered regardless of the sphere of public relations within the framework of which this activity is

carried out. We are talking about personnel law, disciplinary law, digital law, energy law, consumer law, etc. It seems rather simple to create a new branch of law. An adjective is attached to the noun "law" (mining, pipeline, compulsory, compensatory, etc.) and the job is done, a "new branch of law" is formed. Despite the obvious absurdity of the methodology of such "law formation", it continues to inspire "searches and discoveries" of those who believe that the theoretical model of law can be transformed as permanently as the branch legislation permits [3].

To the issue of categorical status of penitentiary law

The publication of A.M. Bobrov and N.A. Mel'nikova "Is There Any Reason to Single Out Penitentiary Law in the System of Russian Law?" prompted us to write this article [4]. Having responded to the request to act as a reviewer on the named work and noting, not without pride, that the authors chose our scientific works as the most frequently cited, at the same time, we could not agree with a number of formulated provisions and conclusions that made us contemplate on the issue. At the same time, as well as the abovementioned authors, we considered it necessary to initially present our understanding of the system of law and the system of legislation, with an emphasis on their relationship.

It is obvious that the system of law and the legislative system are different phenomena. To argue with this, as well as to prove the evidence of the stated position, does not make sense.

The system of law is a set of legal norms, the system of legislation is a set of legislative acts.

What is penitentiary law and what kind of the system formation is it part of?

The answers to these questions, according to A.N. Bobrov and N.A. Mel'nikova, should be sought in the history of "prison science", hereinafter referred to as "penitentiary science". With all due respect both to the authors themselves and to "Her Majesty Science" we cannot agree with this stance. The institution of punishment arises long before its scientific understanding. Criminal punishment in the form of prison isolation, which aims not only to punish the crime committed, but also to correct the convicted person, emerged in Europe in the age of Enlightenment and was based on the idea of rational organization of society and all processes in it. To continue this idea, the perception of punishment was also rationalized. On the one hand, legislators tried to distribute punishments more evenly, since in previous eras not all criminals had been punished. Punishment had been imposed disproportionately to the public danger of the crime committed. The main task of the archaic punishment was to demonstrate state power and its ruthlessness in relation to real and potential criminals. Hence, punishment combined cruelty, entertainment (publicity) and transience.

Enlightenment thinkers took on the task to develop such systems of punishments that would no longer demonstrate the power and ruthlessness of the state, but the wrongness of the crime itself as a form of human behavior. Scholars wanted punishments to show the essence of the crime and the damage it caused to society. The punitive effect was combined with correctional and educational. Hence, the prison system was most suitable not so much for punishing criminals (since it did not meet the previously designated characteristics of the punitive punishment institution, providing neither entertainment nor transience of the punitive effect; cruelty was hidden from the broad masses behind the walls of prison casemates and significantly lost its preventive value), as for their re-education. One of the aspects of total rationalization and specialization of social life in the conditions of the Enlightenment is the emergence of the phenomenon of discipline, which involves analysis and formalization of each action performed by a person, subordination of these actions, both individually and in their totality, to a strict order. Decomposition of actions into details and arrangement them in strict sequences covering long periods of time and a significant number of people was a special industrial way of subordinating a person to the authorities, whether it is the power of a prison guard, school teacher, or army commander. Due to that structure of public organization and social management implementation, a disciplinary institution with a guarded external perimeter, strict daily rou-

tine, constant supervision and control over convicts became the main candidate for the role of a machine for re-educating criminals and embedding them in the global state machine, where in the same way institutional formations, such as schools, hospitals, plants and factories, and army units, operated.

In the Russian Empire, the centralized system of state administration in the field of criminal penalty execution was created in 1879, when the Main Prison Department was established as part of the Ministry of Internal Affairs [5]. The traditional approach for Russia, when the Russian word denoting a particular phenomenon is mechanically replaced by a foreign one, was also involved in this case. The prison system was called penitentiary, and penitentiary studies replaced prison studies as a direction of scientific research and educational process. In fairness, it should be noted that the very fact of borrowing Western European experience, including in the field of execution of criminal penalties, should not be considered as a negative. Russia had always demonstrated the highest rates of development in the conditions of openness to positive developments in various spheres of public life. The transition to a European-type penal system involved humanization of the institution and the shift of emphasis in its execution from punitive to correctional. The introduction of the word "penitentiary" (from Lat. poenitentiarium – house of repentance) and its derivatives into the penal terminology was connected with correction of criminals on the basis of understanding a negative nature of the crime and perceiving it as an unconditional evil, followed by repentance and redemption of guilt [1]. The same purpose was pursued by "correctional houses" created in the penal system of the Russian Empire [2]. Can we say that the introduction of the word "penitentiary", etc. into the "Russian penal language" led to practical transformation of the prison punitive system into correctional (penitentiary), and prison science into penitentiary? Surely not. By itself, the fact of replacing one name with another does not always mean qualitative transformations of the meanings and contents of the reassigned phenomena. The article by A.N. Bobrov and N.A. Mel'nikova pays considerable attention to the arguments about administrative law, a special part of which, according to the authors, includes almost all militarized branches of law: penitentiary, military, migration, and police. It turns out that researchers practically take a position that they fiercely criticize throughout their publication. There is no penitentiary law as a branch of law, but there are *militarized* (emphasis added) branches of law, including penitentiary law. It is obvious that these and many other areas of public legal influence are directly related to public administration. However, it does not mean that everything, to one degree or another related to public administration, is included in the subject area of administrative law. The latter, in its current state, includes legal foundations of state organization, legal foundations of administrative justice, legal foundations of administrative responsibility as relatively independent subbranches. The system of legislative sources of administrative law is characterized by their partial codification, which, on the one hand, allows us to talk about the possibility of separating a new branch from administrative law (for example, administrative procedural law), and on the other, involves considering the administrative direction of legal regulation, to a greater extent not as an abstract branch of law, but as quite real branches of the national legislation. At the same time, reasoning about which name (police law, state law, administrative law) is more consistent with scientific, and which is pseudoscientific, in our opinion, does not make sense due to the subjectivity of the authors' points of view, guided by the monistic principle: "all points of view are divided into two: mine and the wrong one".

Let us return to penitentiary law. Indeed, in the Russian Empire, this term was not used to characterize the sectoral division of law and there is nothing strange about it. Russian scientists of the pre-revolutionary approach relied in their theoretical constructions on the continental European tradition and, to a greater extent, did not solve an abstract theoretical question: what is law and how it is arranged, but built practice-oriented constructions aimed at adapting the implemented legal institutions, principles, technologies to the realities of Russian society, initially oriented not to formally-legal regulations, but

moral attitudes. This predetermined relative inattention of Russian legal scholars of the 19th – early 20th centuries to the issues of structuring law.

Soviet jurisprudence was based on the polar concept of the world order, within which two world state-legal systems were opposed: Western (capitalist) and Eastern (socialist). Moreover, the named opposition was antagonistic (irreconcilable) in nature. What was proclaimed valuable in the capitalist West was not recognized by the socialist East and vice versa. Naturally, such an opposition could not but affect the sphere of law. However, if capitalist law, having been generally developed in Western Europe for more than 200 years (17th–20th centuries), acquired stable legal forms and legal and technical means of lawmaking and law-realization activity and was recognized by the majority of citizens, then socialist law arose as a phenomenon of a new reality on the revolutionary wave of "renunciation of the old world" and rejection of the experience of the "old life", was forced to create its own legal theory just-in-time. No doubt, issues related to the sectoral division became topical. It is quite logical that the word "penitentiary", alien to the Soviet atheistic mentality, disappeared from the Soviet penal language. In Soviet Russia, the penal system extended its influence to two categories of citizens: in relation to "enemies of the people/state" and "incorrigible" criminals (malicious repeat offenders), criminal punishment acted as a punishing sword. As for the persons belonging to working class who committed crimes due to a lack of cultural development, thoughtlessness and negligence, the state system of criminal penalties acted as a measure of preventive and corrective action. At the same time, the state supported a hypothesis about possible final eradication of crime as a phenomenon alien to the Soviet cultural tradition, oriented in its progressive development towards the construction of a classless, and therefore stateless communist society in which there will be neither crime, nor criminal, criminal procedure, penal law, nor the penal system related to these branches.

Destruction of the system of *Soviet socialist law* (emphasis added), caused by the collapse of the Soviet socialist state (USSR/RSFSR), was not accompanied by the rethinking of conceptual foundations of understanding of law. Despite criticism of orthodox normativism of the Soviet period and active introduction of conceptual pluralism and, first of all, iusnaturalism into the theory of understanding of law, legal positivism continued to prevail in the field of branch and applied jurisprudence based on the inextricable connection of law and the state and the unconditional dominance of normative legal acts in the system of formal sources of law, among which priority was given to national legislation acts and presidential decrees.

In the current situation, discussions about the structural composition of the system of law with further definition of certain branches, proposed by interested authors, acquires the character of discussion for the sake of discussion. If Soviet law, being a "historical innovation", differentiated itself from imperial law, then the law of modern Russia, stating its difference from both monarchical and Soviet, nevertheless does not make a clear distinction between the corresponding legal paradigms. It is impossible to seriously consider the renaming of state law into constitutional law as conceptual changes, and the theory of state and law into the theory of law and the state. The return of the term "penitentiary" to the legal vocabulary should be considered from different perspectives. On the one hand, the supporters of its introduction, as previously noted, showed off their intelligence due to the mechanical change of the corresponding line of names: penal system – penitentiary system; penal law – penitentiary law; institutions of the penal system – penitentiary institutions, etc. If we take this approach as a basis, then the question of whether penitentiary law is an element of the legal system of modern Russia (although we believe it is more correct to talk either about the national legal system or about the system of national legislation) boils down to the question of whether we consider we terms "penal" and "penitentiary" interchangeable. There was approximately the same situation in the mid-1990s, when the issue of changing the name of science, branch of law and academic discipline from state law to constitutional law was being resolved. At the same time, many people

insisted on the importance of such a change in terms of democratizing the state structure of Russia. Interestingly, most departments in departmental universities retained the "Soviet name" of departments of public legal disciplines, the same name was given to one of the enlarged scientific specialties (public legal (state legal sciences)).

If we proceed from the essence of penitentiary as a sphere of social activity, in which punishment is perceived not so much as penal treatment demonstrating the authorities' power and ruthlessness to the "little man" bearing in mind that there is no such thing as a get out of jail free card, but as a lesson taught to realize person's own guilt for the crime committed, then the situation is completely different. Article 2 of the Constitution of the Russian Federation, fixing that a "person, his/her rights and freedoms are the main value", fills the system of executing punishment with the meaning qualitatively different from both imperial and Soviet analogues, giving it a penitentiary (correctional, penitential) orientation. We may be accused of legal idealism. We will not argue; indeed, in modern Russia, many liberal values and principles introduced in the 1990s are perceived as not viable and chimerical. However, it does not predetermine that these values cannot be implemented in principle. Let us consider the Church as an example. This structure, working with believers does not set itself the task of cultivating one hundred percent righteous men. It does not set a task, but carries out activities for a person to stay on God's path, including in institutions of the penitentiary system, thereby realizing their penitentiary function. The same can be said about employees of the penal system who work with citizens who have violated the law and whose rights and freedoms the state recognizes as core values.

Here we ask the question once again, whether it is reasonable to talk about penitentiary law as a branch of modern Russian law? If we talk about objective law, regardless of national-historical specifics, then the answer is negative. It is possible to speak with certain reservations about penitentiary law and the penitentiary system in relation to the national legal system of Russia. This understanding makes it possible to carry out a comparative analysis of similar systems (regardless of their official name) created and functioning at various stages of Russian political genesis. In particular, the work conducted shows that the concept of organizing the Soviet penal system, without any significant changes, was adopted by the penal system of post-Soviet Russia, still being predominantly repressive and punitive, regardless of the use of the term "penitentiary".

Speaking about the place of penitentiary law in the system of national legislation, it should be emphasized that it is unacceptable to reduce legal acts regulating the social environment, in one way or another related to the execution of criminal penalties, exclusively to penal law. People serving sentences participate in various legal relations regulated by various legal acts (constitutional, civil, administrative, family, labor, etc.), while legal regulation is carried out taking into account the subject composition and content of the relevant relations, which, despite the substantive difference, have a common object – the penitentiary environment. It is precisely this feature that allows us to speak of penitentiary law as an intersectoral normative community that unites both specialized legal acts and acts that are indirectly related to penitentiary communications.

In conclusion, we would like to express our gratitude to A.N. Bobrov and N.A. Mel'nikova for the article they prepared; it prompted us to once again comprehend the phenomenon of penitentiary law. The only thing we would like to ask dear authors is to preserve in their subsequent works a correct attitude to any expressed points of view, regardless of the subjective attitude to them. We believe that the classical branches of law do not need anyone's protection, precisely because of their "classicism". Penitentiary law does not exactly claim a classical role in jurisprudence; therefore, it has no sense to protect the system of law in general and the system of Russian law in particular from it.

Representing the regulatory and protective system combining legal acts that enshrine penitentiary norms defining fundamental principles and mechanisms of the organization and functioning of the penitentiary system, establishing measures of encouragement for

positive behavior and negative responsibility for the commission of offenses, penitentiary law acts as a comprehensive means of legal influence in the field of penitentiary legal relations.

As law fulfils regulatory and protective functions, it is necessary to differentiate regulatory and protective functions of penitentiary law. The regulatory impact of penitentiary law is aimed at maintaining the established law and order in the penitentiary sphere and its positive correction. The protective effect is aimed at preventing possible offenses and providing adequate response to the illegal acts committed. At the same time, in all cases, the implementation of the norms of penitentiary law is carried out in the form of penitentiary legal relations opposed to penitentiary offenses.

As for the question expressed by A.N. Bobrov and N.A. Mel'nikova, whether the relations arising in the penal system in connection with illegal acts are penitentiary or they are not included in the subject of penitentiary law, we consider it necessary to explain the following. Law and offense, being deterministic phenomena, simultaneously act as antagonistic constructions. The offense stems from the law, just as death is a consequence of life. According to the formal legal approach to understanding law, the act not recognized as such in the relevant legal act is not an offense. And if so, then paradoxically, the offense is a consequence of the law. There is no legal act defining types and compositions of offenses, as well as establishing measures of legal responsibility for them, there is no offense. Accordingly, all legally significant (provided by law) public relations should be divided into legitimate – legal relations and illegal – offenses. It follows from the above that penitentiary legal relations are always legitimate relations. Relations arising in connection with commission (or prevention) of penitentiary offenses are no exception. These legal relations are related to implementation of the protective function of penitentiary law and are therefore called protective. Unlike regulatory legal relations based on the presumed legitimacy of consciousness and behavior of subjects of relevant penitentiary communications, protective legal relations are based on the presumed illegality of subjective consciousness and behavior. Thus, the subject area of penitentiary law includes both lawful and illegal acts of participants in penitentiary communications. At the same time, only legal relations should be considered as positive forms of social behavior in the penitentiary sphere. In turn, offenses are illegal legal facts with the prevention and counteraction of which penitentiary legal relations of a protective orientation are connected.

So, does penitentiary law exist? There is an answer. Despite the absence of a legislative definition, the phenomenon of penitentiary is quite actively used both in the scientific and educational process and official rule-making, including in the current Concept for the development of the penal system of the Russia Federation up to 2030.

Does penitentiary law occupy a certain place in the Russian legal system? If we recognize the penitentiary system existence, then it is logical to recognize penitentiary law, and if so, then this phenomenon occupies a certain place in the system of national law of Russia. Is this place clearly defined and unambiguously perceived by all researchers? The answer is negative, because there is no consensus in science, characteristic of the bureaucracy based on the power vertical, where the boss' order is still perceived as a law for the subordinate. The supreme judge, indifferent time, will show, whether the term "penitentiary" will be established in relation to organizational regulators with the help of which regulatory and protective influence is carried out in the sphere of execution of punishments. We believe that over time, penitentiary law would acquire its conceptually completed categorical status, primarily in the scientific field. And the very fact that this article was published in the journal "Penitentiary Science" inspires and pleases us.

Conclusions

1. Consistency is a universal property of law both in abstract-theoretical and praxiological understanding.

2. The concepts of the system of law, legal system, legislative system used general theoretical and branch legal science, in some cases, are not clearly distinguished, which leads to confusion of the form and content of

the categories branch of law and branch of legislation.

3. Discussions regarding separation of new branches in the legal system are dictated in most cases by subjective interests of individual authors who solve selfish tasks, usually related to obtaining academic degrees.

4. Penitentiary law as an objectified concept – the theoretical and legal model is an intersectoral normative community that is formed simultaneously with the organizational and functional formation of a specialized state system to execute criminal penalties and is modified simultaneously with it.

5. In the modern Russian law, penitentiary law is considered either as the penal law "renamed to meet European standards", which continues to be as repressive and punitive as the criminal executive law of the Soviet period, or as a "legal innovation", on the one hand, designed to show a change of the punitive and repressive objectives of the Russian penal system into correctional and educational, and on the other hand, expanding the subject of the legal impact of this community, including, along with actual penal relations, communications regulated by norms of other branches of Russian law.

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INFORMATION ABOUT THE AUTHOR

ROMAN A. ROMASHOV – Doctor of Sciences (Law), Professor, Honored Scientist of the Russian Federation, professor at the Department of State and Legal Disciplines of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, romashov_tgp@mail.ru, https://orcid.org/0000-0001-9777-8625

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Factors Affecting Safe Conditions for Serving Sentences in Economic Maintenance Units of Pre-Trial Detention Facilities

ANNA I. GOLUBTSOVA
Kazan (Volga Region) Federal University, Kazan, Russia, GolubcovVA@mail.ru, https://orcid.org/0000-0003-2013-3102

Abstract

Introduction: deprivation of liberty in the domestic criminal and penal law is the most severe form of punishment for persons who have committed crimes. Institutions of the Federal Penitentiary Service face the task to correct convicts. Formation of law-abiding behavior and respect for generally recognized norms and rules of human community in convicts, restoration and maintenance of social ties is impossible without implementation of state policy aimed at ensuring the rights and legitimate interests of citizens, including in places of forced detention. Pre-trial detention centers perform functions of a correctional institution in relation to a number of convicts. The special mode of functioning of pre-trial detention centers imposes certain difficulties on the process of serving and executing sentences. The article considers factors affecting the security of convicts serving sentences in pre-trial detention facilities of the penal system. *Purpose*: to study various theoretical approaches to classifying factors and their impact on the process of execution and serving of punishment, as well as identify key threats to convicts' vital interests. *Methods*: the methodological basis of this study is a set of methods of scientific cognition, among which the main place is occupied by questionnaires and statistical analysis. *Results*: based on the analysis carried out, the author makes a conclusion about crucial factors affecting safe conditions of serving sentences by convicts of the economic maintenance unit of pre-trial detention centers of the penal system. *Conclusions*: the author emphasizes the need for constant state control over the penal policy implementation in the field of ensuring safety of persons deprived of liberty, as well as continuation of scientific and law enforcement activities to protect the vital interests of those sentenced to imprisonment.

Keywords: safety factors; convicts' safety; serving of sentence; socio-psychological climate.

12.00.08 – Criminal law and criminology; penal law.

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Introduction

In the context of the ongoing process to reforming the Russian penal system, the tasks to ensure human rights in the execution of criminal punishment in the form of deprivation of liberty, personal safety and inviolability of

convicts and persons in custody are priority tasks of correctional institutions and pre-trial detention centers of the Federal Penitentiary Service of the Russian Federation. The Constitution of the Russian Federation, recognizing the rights and freedoms of a person, including those who have committed a criminal act, gives state bodies the duties of recognizing, observing and protecting them.

The data, published by human rights organizations in 2021, on cases of criminal violence against convicts serving sentences in institutions of the Federal Penitentiary Service of Russia, including with participation of employees and personnel of the penal system, seriously undermined public opinion about the domestic penitentiary system, in terms of performing law enforcement functions related to correction of convicts. Revealed serious violations in the field of human rights led not only to personnel changes in the leadership of the Federal Penitentiary Service of Russia and its territorial bodies, but also initiation of criminal cases against convicts and employees of institutions, as well as attracted serious attention of the highest state authorities and President of Russia V.V Putin to this institution. All this resulted in the President's instructions on strengthening measures of prosecutorial supervision over activities of places of detention, as well as the preparation and introduction of amendments to the penal legislation, in terms of establishing responsibility for torture or other actions, contrary to the will of man.

Despite the proposed and partially adopted measures, unfortunately, it is necessary to recognize the fact that at the highest level practically nothing was said about the causes and conditions of the current negative practice of using illegal methods to correct convicts, as well as factors affecting the process of execution and serving of punishment. This situation indicates insufficient study, including scientific analysis of the problems associated with ensuring convicts' safety, and adoption of effective measures aimed at creating a truly safe environment.

E.V. Martynova, D.V. Uglitskikh, A.V. Zvyagina, A.V. Smirnov, B.B. Kazak, A.V. Shcherbakov, L.V. Lozhkina, A.V. Chugunov, A.M. Sysoev, N.V. Kuz'mina, T.A. Skub, A.N. Zhuravlev, E.K. Panasenko, V.B. Shabanov, A.L. Santashov, A.L. Luk'yanovich, M.A. Gromov, R.Z. Useev, S.V. Kulakova and others studied factors affecting convicts' safety during execution and serving of punishment. However, this serious theoretical scientific experience still does not find its proper enforcement in practice.

Theoretical foundations

The research in scientific literature on the topic under consideration shows the presence of different approaches and criteria for classifying factors affecting convicts' safety in the process of serving a sentence. Most scientists associate convicts' safety with the following factors:

– an economic state not only of the penitentiary system, but also of the state as a whole;

– a territorial and geographical location of institutions executing punishment;

– natural-climatic and ecological conditions of the environment of the dislocation of institutions;

– a socio-political state of society;

– a level of crime, a state of the criminogenic environment and other factors affecting the process of execution and serving of punishment.

At the same time, some scientists identify other factors that affect protection of convicts' vital interests, for example, a state of production and economic activity of the correctional facility and a state of the operational-regime situation in the institution.

This opinion is shared by E.V. Martynova, D.V. Uglitskikh, A.V. Zvyagina, A.N. Zhuravlev, E.K. Panasenko.

So, E.V. Martynova, in addition to the main factors, identifies conditions affecting convicts' security level, according to the strength of their manifestation and the extent of possible harm:

– the presence of prohibited items in a correctional facility, including alcoholic beverages and narcotic drugs;

– the organization and provision of medical care;

– material and household support of convicts;

– convicts' illegal behavior aimed at infringing on the rights and freedoms of the individual, associated with encroachment on vital interests [10].

In his study, D.V. Uglitskikh pointed out that the following factors influence safe conditions of serving a sentence by convicts:

– staffing of a correctional facility;

– effective interaction of all structural divisions of the institution to ensure supervision;

– a state of the operational situation and decision-making when it changes;

– a state of law and order in a correctional facility, as well as logistical support for supervision organization [15].

According to A.V. Zvyagina, labor adaptation is one of the important conditions to ensure convicts' safety. The author identifies production and non-production factors. Production factors relate to able-bodied convicts' involvement in labor activity, a lack of demand for most occupations mastered by convicts in the process of serving their sentences, and obsolescence of the material and technical base of the production sector. Non-production factors include economic, organizational, psychophysiological, socio-psychological, cultural and household [4].

A.N. Zhuravlev, considering issues of ensuring security in places of deprivation of liberty through indicators of the state of the operational situation in a correctional facility, suggests the following classification of negative factors:

– shortcomings in the organization of execution of punishment related to the organization of penal institution activities;

– a state of crime both inside and outside the correctional facility;

– a political situation in the country and actions of popular disobedience associated with it;

– convicts' negative reaction to changes in the external and internal environment;

– emergencies arising in a correctional facility (fires, accidents, explosions, destruction);

– the instability of the correctional facility functioning;

– employees' non-fulfillment of official duties, security measures and rules of service, as well as their unprofessional actions, etc. [3].

E.K. Panasenko presents the following classification of factors, dividing them into groups related to:

– organizational and managerial activities of the correctional facility administration;

– labor use of convicts;

– a state of supervision over convicts' behavior;

– a sphere of execution and serving of imprisonment [11].

A.M. Smirnov, considering issues to ensure security of penal institutions, proposes to single out a separate type of convict security – victimological security, characterized as a state of protection from illegal (negative) actions and encroachments. The probability of becoming a victim of an unlawful assault or crime, according to the author, depends on the following factors:

– personal characteristics of the convicted person;

– a nature of the crime committed;

– a psychological environment of convicts;

– a state of law and order in the process of execution of punishment;

– convict's social status [13].

B.B, Kazak, A.V. Shcherbakov, L.V. Lozhkina, A.V. Chugunov, A.M. Sysoev, N.V. Kuz'mina, T.A. Skub associate the state of security of convicts with the stated factors.

B.B. Kazak and A.V. Shcherbakov in their research came to the conclusion that security of a correctional facility also depends on the specifics of penitentiary crime, which includes:

– penitentiary relations;

– a subject composition of criminals;

– specifics of the psycho-emotional side of criminal manifestations;

– increased latency.

According to the scale of prevalence of threats and dangers, scientists divide factors into global, regional and local [5].

L.V. Lozhkina and A.V. Chugunov, among other factors, associate convicts' safety in a correctional facility with:

– a state of crime in the country;

– a change in the qualitative characteristics of convicts for the worse, high level of crimes against the person committed in a correctional facility;

– insufficient preventive work to prevent crimes;

– a difficult financial situation of the penitentiary system itself, etc. [9].

Studying issues of countering extremism in places of detention, A.M. Sysoev connected a level of personal security with the following characteristics of a correctional facility:

– social isolation;

– a priority of antisocial relations among convicts;

– aggressive behavior of a large number of convicts;

– a high percentage of people suffering from mental disorders;

– "overcrowding" of penitentiary institutions;

– convicts' life monotony;

– a strictly regulated process of criminal punishment execution [14].

N.V. Kuzmina and T.A. Skub rightly point out that the factors that have a direct impact on the process of serving a sentence can be both various changes concerning society and the state of crime in the country. They are as such:

– organizational, legal and criminogenic processes occurring in a correctional facility;

– a social environment;

– a criminal ideology;

– shortcomings in the activities of a correctional facility;

– gaps in the legislation;

– drawbacks of a criminal, psychological, organizational and managerial nature [7].

A.V. Shcherbakov connects the state of convicts' security with negative processes and social phenomena. The author rightly refers to processes and phenomena, such as rejuvenation of crime and deterioration of criminological characteristics of convicts, as well as the problem associated with organization of socially useful employment of convicts serving sentences in a correctional facility and adoption of measures for their re-socialization [18].

In their research, V.B. Shabanov, A.L. Santashov, and A.L. Lukyanovich, having considered the state of internal processes of the social environment in the process of execution and serving of a criminal sentence in the form of imprisonment, the specifics of the social sphere of the correctional facility, as well as shortcomings in various areas of the penitentiary system, concluded that convicts' safety also depends on:

– a level of social crime control;

– scientific research, legislative initiative and law enforcement activities in the field of human rights protection;

– the specifics of places of deprivation of liberty;

– the presence of criminal norms and traditions of psychological contact;

– a state of public control over activities of the penal system;

– the effectiveness of activities of control and supervisory bodies [17].

The most important task in this sphere, according to S.V. Kulakova, is to prevent any incidents with convicts' participation and associated psychological readiness of employees for these actions. As the author notes, all the factors affecting employees' psychological readiness to ensure safety of penitentiary institutions can be divided into organizational, logistical, psychological and criminogenic-situational, including:

– organizational issues of penitentiary institutions and readiness to act in case of emergency;

– engineering and technical support for service activities;

– a system of personal and professional characteristics of employees [8].

M.A. Gromov, dividing all the factors affecting convicts' safety into external and internal, pays special attention to:

– moral characteristics of society, affecting spiritual security of the country;

– demographic processes and the structure of population;

– a geographical location of penal institutions;

– activities of international organizations;

– a state of criminal culture among convicts;

– a state of production and economic activity of a correctional facility;

– a state of the correctional process, etc. [1].

R.Z. Useev associates the state of protection of convicts' vital interests with:

– the influence of natural, environmental, man-made and social hazards;

– a special status of the penitentiary system;

– a state of social and legal protection of the service in the UIS;

– a a level of official discipline, criminality among employees of the penal system and a degree of its corruption;

– imperfection of the penal legislation;

– the non-compliance of domestic and international legislation in the field of penitentiary law, etc. [16].

Results

Having considered the classification of factors proposed by penitentiary scientists, we can single out key factors affecting convicts' safety:

– conditions of serving sentences;
– criminal environment of serving a sentence;
– criminological characteristics of convicts;
– staffing of correctional facilities and social security of UIS employees;
– effective supervision of convicts;
– a state of the operational situation and decision-making when it changes;
– material and technical support of the organization of supervision;
– labor adaptation of convicts;
– moral and psychological climate;
– a state of law and order;
– specifics of penitentiary crime;
– a criminogenic situation in the country;
– a financial position of a correctional facility;
– social isolation, antisocial relations among convicts;
– a strictly regulated process of execution of criminal punishment;
– educational work with convicts and their resocialization;
– state, judicial, public control and supervision over correctional facility activities;
– activities of international organizations;
– a level of convict subculture development;
– a state and application of the norms of domestic and international penal legislation.

Let us consider the impact of the above factors on the state of protection of person's vital interests, respect for the rights and legitimate interests of convicts serving sentences in pre-detention centers.

In accordance with the Penal Code of the Russian Federation, a pre-trial detention center is a correctional facility for several categories of convicts. The most significant category of convicts in a pre-trial detention center are persons who are held in the institution to perform household work. Convicts serve their sentences in the conditions that are established in general regime correctional facilities, but with significant, in our opinion, features that in most cases positively affect the punishment execution process.

Taking into account the fact that all convicts serving sentences in a pre-trial detention center are employed and have permanent earnings not lower than the established subsistence minimum, issues of labor adaptation do not have a proper impact on the process of ensuring security. Moreover, financial security of convicts does not depend on the economic situation in the region, where the pre-trial detention center is located, economic and production activities of the institution, as well as other factors related to convicts' employment. These circumstances ensure involvement in the work of convicts who have claims in criminal and civil cases, which in turn guarantees the adoption of appropriate measures to repay them.

The work performed by convicts in pre-trial detention centers is mostly not of a production nature, with the exception of convicts involved in cooking and washing bed linen. In turn, it is fair to note that the level of occupational injuries among convicts of this category is quite insignificant. As a rule, convicts' injuries are of a domestic nature and do not lead to serious consequences.

Taking into account the fact that persons serving sentences in pre-trial detention centers are mostly positively characterized, have not previously served a sentence in the form of imprisonment, there is an insignificant number of cases of infringement on life. A low criminality level is also due to the fact that those persons who do not want to serve their sentences in a general regime correctional facility remain to serve their sentences in an economic maintenance unit. There may be several reasons for this. To begin with, people fear the criminal environment present in general regime correctional facilities. Besides, they have adapted to conditions of the pre-trial detention center and do not want to relive the stress associated with transfer to another institution.

As a rule, among convicts serving sentences in a pre–trial detention center, criminal subculture is poorly developed, relationships are mostly benevolent, the level of violations and crimes, as well as the criminogenic environment influence are minimal.

As for victimological safety of convicts serving sentences in pre-trial detention centers, the probability of becoming a victim of the crime while serving a sentence is insignificant. Positive personal characteristics of convicts, a weakly expressed criminal subculture, absence of convicts of a negative orientation, increased tolerance to the nature of the criminal act committed, moral and psychological

climate among convicts, maintenance of law and order at the proper level, the status of convicts as "those who have not previously served their sentences", and a lack of experience in deprivation of liberty minimize negative security threats and practically exclude commission of crimes against the person.

The factors related to the execution process also have a positive impact on ensuring convicts' safety in pre-trial detention centers. They are the following:

– a high degree of supervision over prisoners and its logistical support;

– a high level of application of integrated security systems in pre-trial detention centers;

– increased requirements for isolation of various categories of persons held in pre-trial detention;

– cell detention of prisoners capable of having a negative impact on convicts, etc.

It should also be noted that units for economic maintenance of pre-trial detention centers, as a rule, are not crowded, their quantitative composition depends on the actual occupancy of the institution. In accordance with the design rules of pre-trial detention centers, the number of convicts performing household work cannot exceed 7% of the occupancy rate [12]. Under these conditions, more efficient work can be conducted to correct convicts, encourage development of their positive qualities and respect for the norms of human community and the rights to personal integrity, life and health, and form a healthy moral and psychological climate, thereby reducing dependence of the process of serving a sentence on social isolation of convicts, antisocial relationships among themselves, convicts' life, problems of organizing socially useful employment of convicts and measures for their re-socialization.

Territorial and geographical conditions of the functioning of the institution do not have a significant negative impact on convicts' safety. Basically, pre-trial detention centers are geographically located in large settlements. As a rule, in the locations of pre-trial detention centers there are other state authorities and law enforcement agencies, which ensure judicial, public and departmental control of their activities, as well as constant prosecutor's supervision. In these circumstances, the issues of ensuring the rights of convicts, including personal security, are under closer supervision than in correctional facilities located outside large territorial entities.

However, it is fair to note that in addition to the positive aspects associated with serving a sentence in a pre-trial detention center, there are also negative ones. The financial and economic situation of the penitentiary system, as well as professional activities of employees, can have a real impact on the state of protection of vital interests of convicts.

In the information and analytical reference based on the results of the study of the socio-psychological situation among convicts (the Instruction of the Federal Penitentiary Service of Russia for the Perm Oblast, 2021, the document was not published), problematic moments characteristic of most pre-trial detention facilities were identified from the point of view of convicts' subjective assessment. The convicts mentioned problematic issues, such as:

– organization of the medical unit work;

– wage violations related to the lack of compensation for overtime, work on weekends and holidays;

– provision of shops at pre-trial detention centers with food and basic necessities;

– utilities and household living conditions;

– meetings with relatives and friends, a criminal defense lawyer;

– organization of the correctional process;

– a low level of justice in relations with employees, and a high level of conflict [2].

Current pain points in the process of serving a sentence, in most cases, are objective in nature and related to the specifics of functioning of pre-trial detention centers as institutions executing a court sentence.

We will highlight objective threats to the vital interests of convicts associated with the nature of activities of the pre-trial detention center.

1. Specifics of pre-trial detention center activities.

Pre-trial detention centers are designed primarily for detaining the suspected and the accused of committing crimes. For this purpose, a detention regime is established in pre-trial detention centers, aimed, inter alia, at ensuring the rights and legitimate interests of persons in custody. Pre-trial detention

centers perform two tasks that are different in content, but the same in degree of responsibility:

– keeping in custody of persons in respect of whom a preventive measure in the form of detention is chosen;

– execution of criminal punishment in the form of imprisonment in relation to convicted persons, including the household maintenance unit.

At the same time, the fulfillment of the first task is considered as its priority activity. Hence, as a rule, less attention is paid to issues of ensuring convicts' rights and legitimate interests. It should be noted that the increased conflict between convicts and employees of the institution, in most cases, is not associated with a low level of legality in the process of criminal punishment execution, and does not entail the use of means to correct convicts not provided for by penal legislation, but is a consequence of high loads, a large volume of tasks performed by employees and staff of pre-trial detention centers.

However, in these conditions, another negative moment may arise, associated with the presence of non-official relationships of employees and staff of the pre-trial detention center with convicts. In conditions of a shortage of personnel and a large volume of official tasks performed, it is not uncommon for convicts to be involved in performing unusual tasks.

2. A special environment for serving a sentence.

It is generally believed that the penal system begins with a pre-trial detention center. Persons, in respect of whom the court has chosen a preventive measure in the form of detention, arrive there. In the first days of their stay in pre-trial detention centers, the suspected and the accused undergo a necessary medical examination, fluorographic and laboratory tests, the results of which often reveal infectious, socially significant and very dangerous diseases (tuberculosis, hepatitis, syphilis, scabies, HIV infection, etc.). Considering that convicts serving sentences in a pre-trial detention center directly and constantly perform maintenance work at all premises and facilities, are constantly in the risk zone, the threat of their infection with these diseases is too high.

3. Quantitative and qualitative composition of convicts.

An economic maintenance unit is composed of the convicts who have not previously served their sentence, are positively characterized, do not want to serve their sentence in a correctional facility of general regime, as well as those who have applied to the head of a pre-trial detention center with a corresponding request.

According to K.V. Korsakov and I.A. Zhilko, convicts of this category "are always characterized by the absence of a pronounced antisocial attitude and significantly less susceptible to various kinds of criminogenic factors reproducing criminal behavior compared to other categories of convicts" [6]

Convicts' relatives often want the convicted to be kept in economic maintenance units, because of the inability to visit them in a remotely located correctional facility or some other personal circumstances. In these circumstances, convicts have to accept all conditions of serving their sentence, including negative ones, realizing that in case of disagreement with the requirements, they can be transferred to a general regime correctional facility. Considering that the capacity limit of an economic maintenance unit depends on the occupancy rate, the actual number of convicts cannot be increased without any serious grounds. An insufficient number of convicts performing maintenance work leads to the violation of labor legislation requirements in the process of serving a sentence by convicts:

– provision of a proper number of days off;

– compliance with a 40-hour working week;

– payment of overtime hours, as well as work on weekends and holidays;

– provision and holding of annual vacations, etc.

The administration of a pre-trial detention center in most cases supports convicts when they submit requests for changing the type of a correctional facility or replacing part of the sentence not served with a milder kind, as well as parole.

Considering that pre-trial detention centers are not designed for serving sentences in strict conditions stipulated by the Penal Code of the Russian Federation, convicts who have committed malicious violations, as well as

those who do not want to serve their sentence in a pre-trial detention center, are transferred to general regime correctional facilities.

We believe that in these circumstances, convicts are forced to accept appropriate conditions for serving their sentences in a pre-trial detention center, undergo restrictions on their rights and legitimate interests, in the hope of an early release.

4. A state of financial and economic support.

Pre-trial detention centers, performing functions of correctional facilities, do not conduct any production and economic activities. In most cases, there is no possibility to carry out extra-budgetary activities there, which leads to a lack of additional funds.

Conclusion.

It is fair to note that despite the existing negative factors affecting the process of execution and serving of sentences in a pre-trial detention center, it is safer there than in correctional facilities. There are practically no crimes committed in the economic maintenance units of the pre-trial detention center, and the level of offenses is minimal.

Despite the fact that pre-trial detention centers are characterized by a positive moral and psychological climate among convicts and safer conditions for serving sentences, we propose the following measures to reduce the negative impact of the process of serving sentences on the state of convicts' vital interests:

– to control a state of security of penitentiary institutions; work out the Concept for security of the penal system, fixing measures aimed at ensuring safety of the suspected, accused and convicted persons in places of deprivation of liberty;

– to strengthen the role of public organizations, including human rights organizations, in protecting the rights of convicts, which will undoubtedly increase the level of public trust in activities of the penitentiary service; expand the possibility of involving civil public organizations (institutions, associations) in solving issues related to providing medical, social, psychological and other assistance to convicts;

– to continue scientific research in the field of penal law and timely implement scientific achievements in practical activities of institutions and bodies of the penal system of the Russian Federation; fix the concept of security of convicts and persons in custody in the Penal Code of the Russian Federation and the Federal Law "On detention of suspects and the accused of committing crimes" and determine criteria, limits, forces and means to ensure it.

Sharing the opinion of foreign scientists, we should note that deprivation of liberty has a long-term impact on positive life of offenders. In this connection, it is recommended to make coordinated efforts to reintegrate former offenders and make every effort to ensure that former convicts can get paid work after returning to freedom and give up committing crimes [19].

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INFORMATION ABOUT THE AUTHOR

ANNA I. GOLUBTSOVA – Postgraduate Student of the Kazan (Volga Region) Federal University, Kazan, Russia, GolubcovVA@mail.ru, https://orcid.org/0000-0003-2013-3102

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Criminal Legal Impact: Features, Forms, and Issues of Implementation

EKATERINA N. BARKHATOVA
East Siberian Institute of the Ministry of Internal Affairs of Russia, Irkutsk, Russia, ekaterinabarhatova1997@gmail.com, http://orcid.org/0000-0002-0381-5462

Abstract

Introduction: the article reveals the essence of the criminal legal impact, analyzes its forms, and examines mechanisms for implementing certain forms of the criminal legal impact. Attention is focused on the specifics of regulating the mechanism to implement criminal law measures in the Penal Law Code of the Russian Federation. Problems of scientific and legislative definition of certain forms of the criminal legal impact, as well as criminal liability are touched upon. The author comes to the conclusion about the need to improve the legislative regulation of certain forms of the criminal legal impact and the mechanism for their realization, as well as the necessity to adjust forms of the criminal legal impact. *Purpose*: resolution of certain issues to regulate the mechanism for implementing various forms of the criminal legal impact. *Methods*: the author uses a general scientific dialectical method of cognition to consider the essence of phenomena, an analysis method to identify key problems arising in the legislative regulation of the criminal legal impact, a synthesis method to form the author's position on the identified problems and work out a mechanism for their possible solution. *Results*: modern forms of the criminal legal impact, enshrined in the criminal law, and approaches to understanding the criminal legal impact and its implementation raise questions due to the generally recognized point of view in the science of criminal law regarding the beginning and end of criminal liability and the approach to its understanding. Some forms of the criminal legal influence seem ineffective and require adjustments. The legislative regulation of the mechanism for implementing the criminal legal impact needs to be revised due to the inconsistency of its current state with the requirements for codifying norms of one branch of law. *Conclusions*: it seems necessary to correct forms of criminal legal influence defined in the criminal law, determining what should be attributed to such, guided by the goals and objectives pursued by it. In addition, it is advisable to revise the penal legislation system that does not meet codification requirements and does not fully reflect the specifics of penal law.

Keywords: criminal legal impact, criminal liability, penal law, educational impact, judicial fine, punishment, post-penitentiary impact.

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Introduction

The criminal legal impact as a category of criminal law raises a number of issues related to the definition of its concept due to specific goals and relatively specific content; the identification of impact goals, different in each of its forms; the determination of impact forms and their attribution to a particular institution of criminal law; the mechanism to implement its various forms; and the identification of moments of its beginning and end. The central place in solving these issues is occupied by the establishment of types of punishment in the law, its imposition and execution.

Methods

To study identified problematic issues, we applied a general scientific dialectical method of cognition to consider the essence of phenomena. Using the method of analysis, the main problems of legislative regulation of the criminal legal impact were identified. The synthesis method made it possible to form the author's position on the identified problems and develop a mechanism for their possible solution.

Results

Some measures of the criminal legal impact today seem ineffective, and the mechanism for their implementation is not fully regulated, demonstrating organizational shortcoming. Thus, it is reasonable to review a number of provisions of the criminal and penal legislation.

Discussion

The criminal legal impact on a person is designed to ensure the established order in society. In order to avoid further violation of the rules worked out to maintain functioning of the state performing a life-supporting function, it is necessary to response to the already committed crimes adequately. Thus, the purpose of the criminal legal impact is to prevent the commission of new crimes.

In order to clarify the essence of the criminal legal impact, it is appropriate to compare it with criminal liability, despite the essential difference between these phenomena. Approaches to understanding criminal liability are quite diverse. It is understood as an offender's obligation to undergo certain negative consequences, a law-abiding citizen's moral quality to comply with the prohibitions set by the state, and a certain sanction. However, based on the analysis of criminal law norms in their interrelation and inseparable unity, conducted by the author, the definition of criminal liability as a criminal's obligation to suffer punishment for what he/she has done to the state and society seems more correct from a normative point of view.

The criminal legal impact is a tool for implementing criminal liability, that is those measures the state uses to respond to the prohibition violation. Thus, criminal liability is the duty of a criminal, the criminal legal impact is the duty of the state. At the same time, both the first and the second legal phenomenon have one common characteristic, in our opinion.

In the doctrine of criminal law, there is an approach to classifying criminal liability, which allows dividing it into positive and negative [6, p. 37; 8, p. 266]. Positive liability implies responsibility of all persons to the state for compliance with the prohibitions established by criminal law. It is rather a preventive component of criminal liability. Negative criminal liability comes upon violation of the prohibition.

These provisions on criminal liability are also applicable to the criminal legal impact. So, the state prevents violations by establishing a prohibition under the threat of the criminal legal impact on a person, and in case of the crime committed it exerts the criminal legal impact in an accessible form provided for by law. There are various resources to be used for such an impact. Punishment is the most severe form of the criminal legal impact. The Criminal Code of the Russian Federation (hereinafter referred to as the CC RF) stipulates 13 types of punishment, arranged in a certain hierarchy, introduced into the criminal law in order to ensure an individual approach to each criminal and principles of justice and equality of all before the law. The legislator takes a very responsible approach to observing the principle of justice and tries to offer the law enforcement officer a wide range of opportunities to comply with this principle in the imposition and execution of punishment [15; 16; 18, p. 1482; 19, p. 63; 20]. According to Part 2 of Article 43 of the Criminal Code of the Russian Federation, the goals of punishment are restoration of social justice, correction of the convicted person and prevention of new

crime commission. Based on the sequence of these goals in the article, it can be assumed that social justice restoration is a priority, although the opinion about the equivalence of punishment goals prevails in society. The listed goals of punishment reflect the essence of the latter and do not coincide with goals of other types of the criminal legal impact. As M.V. Bavsun correctly notes: "The presence of common goals of criminal law counteraction to crime does not exclude the need to formulate independent goals for each group of impact measures, differing only in their intended result of implementation" [1, p. 14].

At the same time, if we compare goals of punishment with those of the criminal legal impact, we can come to the conclusion that one of them coincides, in particular prevention of crimes. This goal is also pursued in the implementation of other forms of the criminal legal impact, which, along with punishment, should include a suspended sentence, other measures of a criminal legal nature, placement of a minor in a special educational institution of a closed type, exemption from criminal liability and punishment. Yu. V. Truntsevskii backs this stance, indicating that the purpose of applying measures of criminal legal influence is to counteract crime through prevention, combating crimes, minimizing and (or) eliminating consequences of their commission [11, p. 30]. Prevention of crimes as the dominant goal of punishment is also indicated in the criminal law of Muslim states [14, p. 4]. Contrary to the prevailing view of the criminal legal impact, which does not cover issues of releasing a person from criminal liability and punishment, we still adhere to the position of including these measures of the state's response to new conditions in the resources of such impact. The question is to ensure criminal's proper behavior in any legal way. The principle of liability differentiation and punishment individualization presupposes the impact on criminals, based not only on legal facts, but also on their personality, their awareness of the illegality and public danger of their actions, and the desire to improve. In this regard, the criminal legal impact should provide for a kind of incentive and recovery measures. Exemption from criminal liability and punishment refers to incentive measures. Suspended sentence, compulsory measures of educational influence, placement of a minor in a special educational institution of a closed type, and a court fine also fall into this category. We consider it necessary to single out these measures along with suspended sentence, since, although they relate to types of exemption from criminal liability, however, they are also other measures of a criminal nature, i.e. they have a dual legal nature. We cannot consider all other measures of a criminal-legal nature as incentives due to the inclusion of provisions on property confiscation (it is used as a penalty) and compulsory medical measures (here we should single out another category of the criminal legal impact – provision of assistance) in this section.

It seems reasonable to clarify, why placement of a minor in a special educational institution of a closed type is an independent form of the criminal legal impact. So, Part 2 of Article 90 of the CC RF does not have placement in a special institution among compulsory measures of educational influence, thus, based on the literal interpretation of the criminal law, it is not included in the system of measures under consideration. Moreover, Part 4 of Article 90 of the CC RF contains an indication to place a minor in a special institution in case of systematic violation of compulsory measures of educational influence appointed by the court. Part 2 of Article 92 of the CC RF states that placement in a special institution is used as a compulsory measure of educational influence. And again, based on the literal interpretation of the law, it can be concluded that such a measure is used as a measure of educational influence, while, in fact, it is not. Since Article 92 of the CC RF is devoted to the release of a minor from punishment, then it should be included in the group of types of release from punishment, without singling it out independently, but the literal interpretation of the law and the specifics of legal writing again does not allow us to do this. Thus, all types of exemption from punishment and from criminal liability, involving any active activity on the part of the released person or the state, are formulated using the preposition "With": "with the appointment of a judicial fine" (Article 76^2 of the CC RF), "with active repentance" (Article 75 of the CC RF), "with compensation for damage" (Article 761 of the CC RF), "with the use of coercive measures of

educational influence" (Part 1 of Article 92 of the CC RF).

Returning to the issue of goals of the criminal legal impact, it is necessary to refer to goals of its various forms presented in the table.

Goals of various forms of the criminal legal impact

Form of the criminal legal impact	Goals
Punishment	1) restoration of social justice; 2) correction of the convicted person; 3) prevention of crimes
Compulsory measures of educational influence; placement of a minor in a special educational institution of a closed type	1) restoration of social justice; 2) correction of the convicted person; 3) prevention of crimes
Compulsory medical measures	1) prevention of crimes and socially dangerous acts of insane persons prohibited by criminal law; 2) provision of assistance to a person suffering from a disease
Confiscation of property	1) restoration of social justice; 2) prevention of crimes
Exemption from criminal liability (including a court fine)	1) prevention of crimes; 2) correction of the convicted person
Exemption from punishment	1) prevention of crimes; 2) correction of the convicted person

So, each form of the criminal legal impact pursues, along with others, the goal of preventing crimes, including by responding to the crimes already committed. Consequently, the prevention of crimes is a common goal of the criminal legal impact. This also follows from the essence of the latter. This goal determines a number of tasks that the state faces within the framework of the criminal legal impact. They are formulated in Article 2 of the CC RF "Tasks of the Criminal Code of the Russian Federation". It should be noted that the Criminal Code of the Russian Federation acts only as a documentary representation of the criminal legal impact. The code itself cannot pursue any tasks. Such an approach, in our opinion, is similar to the normativist theory of the crime object, indicating that the latter is a rule of law. But, as a number of authors rightly point out, the norm is only a text on paper and the fact of violation of the prohibition established in the norm will not affect this text in any way, which cannot be said about public relations, within which this prohibition will be violated [7, p. 102; 9, p. 94; 10, p. 21].

In connection with the above, it seems necessary to raise the question of amending the title of Article 2 of the Criminal Code of the Russian Federation to "Tasks of the criminal legal influence". If such amendments are made to the criminal law, there appears the logic, according to which the solution of all the tasks listed in Article 2 of the Criminal Code of the Russian Federation must be achieved during the criminal legal impact regulated by the Criminal Code of the Russian Federation.

Developing this idea, it is necessary to consolidate the concept of the criminal legal impact itself, as well as its types. So, for example, Article 1 of the Criminal Code of the Russian Federation could be supplemented by Part 3, establishing that the criminal legislation regulation subject is public relations that develop in connection with the commission of a crime, as well as within the framework of the criminal legal impact , which is the application of measures defined by the criminal law to a criminal in order to prevent violations of criminal law prohibitions and maintain law and order.

Article 1 of the CC RF should also be supplemented with Part 4, defining forms of the criminal legal impact: punishment carried out with the help of correctional influence means (regime, labor, training, educational work); suspended sentence with subsequent control; compulsory medical measures; confiscation of property; exemption from criminal liability, including with subsequent application of certain measures (court fine); exemption from punishment with subsequent control or application of coercive measures of educational influence; criminal record.

The goals of various forms of the criminal legal impact presented in the table may raise questions, and therefore we consider it necessary to comment on some of them.

As can be seen, compulsory measures of educational influence and placement of a minor in a special institution pursue the same goals as punishment. This provision only emphasizes the legislator's stance that a minor who is aware of the public danger of his/her act and whose behavior shows a tendency

to correction can be released from liability in connection with application of these measures or from punishment in connection with placement in a special institution. We are not talking about the fact of correction, but only about the tendency to such. Therefore, highlighting the purpose of correction in this case seems appropriate and necessary. Restoration of social justice should also be attributed to the goals of compulsory measures of educational influence and placement in a special institution for the reason that a minor still undergoes negative consequences of his/her illegal act, although he/she is released from criminal liability, so the balance of public relations is restored.

Compulsory medical measures, along with the provision of assistance to a person suffering from a disease, are aimed at preventing crimes. Perhaps, in this case, the use of the word "crime" is not entirely correct, since commission of an illegal act in a state of insanity excludes criminal's recognition of a crime. At the same time, the category of measures under consideration can also be applied to persons who have violated the law in a sane or limited sane state. Therefore, this goal can be formulated in this way, or the wording can also be expanded: "prevention of crimes and socially dangerous acts committed by insane persons or prohibited by criminal law".

The purposes of confiscation of property that we have identified as another measure of a criminal nature also need clarification. We believe that in this case we should proceed from the category of confiscated property. Depending on this category, one of the goals will be missing, or both will be pursued. The goal of restoring social justice is to compensate the victim for damage at the expense of confiscated property. The purpose of crime prevention is realized through the possible removal from the criminal the tool of the crime or the means of its commission, which to some extent acts as a preventive measure.

Exemption from criminal liability as a form of criminal legal influence pursues two goals. The first one, prevention of crimes, is implemented through the state's credit of trust to the person who has committed the crime. The state, showing favor to the citizen, counts on his/her law-abiding behavior in the future. A citizen who has been trusted will not commit a crime in the future, feeling his/her responsibility to the state. As for correction, a person is aware of the prohibition to commit crimes in the future due to the trust placed in him. According to the articles on exemption from criminal liability, public danger does not vanish due person's awareness of the illegality of his/her actions and his/her conviction of the inadmissibility of committing crimes in the future. Such a formulation is present only in Article 75 ("as a result of active repentance, it has ceased to be socially dangerous"). It allows us to conclude that it is possible to release from criminal liability a person who has not fully achieved correction. The statement that the person who compensated the damage or reconciled with the victim through the expression of an apology has ceased to be socially dangerous seems untenable, since it does not take into account the subjective component. Exemption from criminal liability in connection with the imposition of a court fine is of particular concern in this regard, as it does not imply correction as such, but only the possibility of paying the specified fine. In addition, the fact of possible exemption of an incorrigible person from criminal liability is confirmed by Article 90 of the Criminal Code of the Russian Federation on compulsory measures of educational influence, considered as a type of exemption of minors from criminal liability. The application of such measures to minors released from liability proves the uncertainty of both the legislator and the law enforcement officer in their correction. The approach we have reflected to defining goals of exemption from criminal liability as a form of the criminal legal impact may be criticized regarding the statement about the need to correct the person being released. It may be objected that it is inappropriate even to raise the issue of exemption from criminal liability of persons who need correction. At the same time, the above considerations on the person's fulfillment of objective conditions necessary for exemption from liability, in the absence of real awareness, acceptance of his/her guilt and correction, substantiate of the author's point of view.

Correction of a convicted person as the goal of release from punishment is reflected in the provision of the opportunity for the convicted person to draw appropriate conclu-

sions about his/her behavior without the use of a punitive element. This statement applies both to persons who could not be released from criminal liability on formal grounds, and persons who initially needed to serve a real sentence, but enduring the punishment demonstrated a desire to improve. Correction of a convict cannot be considered as a goal inherent in all types of release from punishment. Thus, release due to an illness, with a change in the situation, with the expiration of the statute of limitations, and postponement are an objectively conditioned necessity, are the duty of the state. Conditional early release and replacement of the unserved part of the sentence with a milder type are of a different nature, which allows us to talk about the purpose of correcting a convict.

Prevention of crimes with regard to release from punishment is achieved, since a convict is not affected by the criminal environment in a correctional institution, does not experience risks of desocialization (if it is a question of deprivation of liberty), and does not undergo various restrictions hindering realization of person's creative and professional capacities (regarding types of punishment not related to isolation from society).

Thus, the goals listed in the table, in our opinion, fully correlate with the forms of the criminal legal impact.

The question of the moment of the beginning and end of the criminal legal impact is of interest in some cases. How do the criminal legal impact and criminal liability relate in this case? In this regard, it is interesting to discuss such forms of criminal legal influence as compulsory measures of educational influence and exemption from criminal liability. There are different views on the moment criminal liability arises. For instance, for supporters of the existence of positive criminal liability it is the moment when the criminal law enters into force [3; 6; 8; 13]. Other authors adhere to the position that criminal liability arises at the time a crime is committed, when a person becomes obliged to face consequences of his/her actions [4; 5]. The dominant opinion today is that criminal liability arises from the moment of being charged. [9, 19]. This stance is based on legal facts and the need to confirm the basis of criminal liability. Proceeding from the essence of criminal liability, one can disagree with this position, since a certain kind of obligation arose precisely about and at the time of crime commission, or law violation. However, a person who has committed a crime can be released from criminal liability, which means that in the modern theory of criminal law the moment, when criminal liability arises and is terminated, is actually determined by the law enforcement officer.

The moment of criminal liability termination also attracts attention. Criminal liability, according to the law, does not end at the time a person has served a sentence. It extends further – for the period when a person has a criminal record. Considering that, upon meeting a number of conditions, a convict has the right for early release and removal of the criminal record, it is necessary to emphasize the powers of the law enforcement officer to establish the moment of criminal liability termination.

The moment of the criminal legal impact emergence is characterized by a later stage in the development of criminal legal relations than the time of criminal liability occurrence. As a rule, this is the moment of criminal sentencing, use of coercive measures of a medical nature or educational influence, confiscation of property, or imposition of a court fine. Besides, an investigator, inquirer or prosecutor may pass a resolution on exemption from criminal liability on the grounds provided for by the criminal law and not requiring a court decision. At the same time, in this case, in fact, the criminal legal impact begins earlier with compensation for damage and other reparation. However, it is impossible to unambiguously call such person's actions as the criminal legal impact, since, as a rule, a person should carry out these actions voluntarily, thus confessing guilt and confirming repentance and correction.

A criminal record should be recognized as one of the forms of the criminal legal impact. Therefore, the moment of impact termination, provided that the sentence is actually served, should be called the moment of record expungement.

Compulsory measures of educational influence deserve special attention in the aspect of discussing the time of the criminal legal impact termination. The legislator considers these measures as an exemption from

criminal liability. At the same time, if a person is released from criminal liability, the state recognizes that such a person does not need further influence and any measures regarding the crime committed will no longer be applied to him/her. So, release from liability with the subsequent criminal legal impact looks rather strange. The same can be said about a court fine. In this regard, it seems unjustified to exclude compulsory measures of educational influence from the number of forms to implement criminal liability. It seems that such a measure of the state's response to the crime committed by a minor should be considered as an exemption from punishment, but not from criminal liability. At the same time, placement in a special institution fits into the algorithm we proposed, in contrast to actual compulsory measures of educational influence. This approach may also be argued by the fact that compulsory measures of educational influence are placed in the section "Other measures of a criminal-legal nature", which title stipulates that the corresponding measures are part of the criminal-legal impact.

A court fine involves rendering of a judicial decision on exemption from criminal liability with subsequent payment of a fine, i.e. it actually transfers the criminal legal impact to a later stage, where it is not presupposed. Moreover, it is assumed that in case of non-payment of a court fine, the decision on exemption from criminal liability is subject to cancellation, and the person is liable to prosecution, conviction and punishment. Considering that initially exemption from criminal liability was envisaged as an irreversible incentive measure, the provisions on a judicial fine do not comply with provisions of the criminal law doctrine and legal writing rules.

The concept of the criminal legal impact in terms of the letter of the criminal law is broader than the one of criminal liability, since it can be implemented outside the latter. We believe that the criminal-legal impact in the form of other measures of a criminal-legal nature should be considered, first of all, as a preventive measure, and not a responsibility measure. Prevention also applies to all citizens, including law-abiding ones.

So, let us turn to the analysis of the mechanism to implement measures of the criminal legal impact provided for by the law. A number of normative legal acts of various levels are devoted to this issue, united within the framework of the penal law branch, however, going beyond the limits of the Penal Code of the Russian Federation. The disparity of provisions on the mechanism to implement certain types of the criminal legal impact does not always have a positive effect on the practice of applying these norms, moreover, the Penal Code of the Russian Federation loses its meaning as a code due to the fact that it regulates only one direction of a large branch. The analysis of the Penal Code of the Russian Federation shows that its norms are devoted only to the execution of punishment and the application of certain measures of the post-penitentiary impact, which are not included in the system of the criminal legal impact. The criterion for compilation of the Penal Code of the Russian Federation is not entirely clear to us. To clarify it, let us take a step back:

1) the Penal Code of the Russian Federation unites norms on the execution of various types of punishments. The position is incorrect, since the Code has provisions on post-penitentiary measures of influence in;

2) it reflects norms related to the jurisdiction of the Federal Penitentiary Service. The position is close to reality, however, the penalty in the form of a fine executed by the Federal Bailiff Service falls out of this scheme;

3) a "mixed" criterion combining the first two features. The most objective criterion, however, is partly refuted by the fact that the Penal Code of the Russian Federation stipulates norms regulating the procedure for applying compulsory medical measures to convicts. Thus, the Penal Code of the Russian Federation is partly devoted to the implementation of other criminal legal measures.

In terms of codifying norms of a particular branch of law, such a provision seems unacceptable. We agree that all the nuances of the criminal legal impact cannot be combined in the code due to their multiplicity and their attribution to the jurisdiction of various law enforcement subjects issued by various bodies. At the same time, the Penal Code could have reflected generalized provisions in the form of norms of a blank nature, but concerning all forms of the criminal legal impact. This is also required by the attitude adopted in the scientific field to penal law as a "living" criminal law.

In our opinion, the specifics of applying post-penitentiary impact measures could be reflected in special regulatory legal acts.

The disunity of criminal and penal law norms in terms of compliance with the hierarchy in the punishment system raises questions. So, in the Penal Code of the Russian Federation, this hierarchy is not maintained (norms on the execution of punishment in the form of mandatory work precede norms on the execution of punishment in the form of a fine).

We argue that, when designing the Penal Code, one should not focus on duties of a particular body or institution, but on criminal law provisions, thus revealing the procedure for their implementation.

When analyzing norms of the Penal Code of the Russian Federation, it can be seen that in fact the criminal legal impact is not limited to those formally defined actions that are regulated by criminal law. In addition to these actions, it stipulates educational work, social impact, labor and training.

International criminal law, like the national one, provides for the use of other measures of the criminal legal impact along with punishment, but does not specify them. Such an approach to the regulation of criminal law relations raises certain doubts about the limits within which international legislation can operate. We agree with S.A. Korneeva that "international judicial bodies' competence should be limited to the recognition of a person guilty of committing a crime against the world and security of the mankind, followed by the appointment of criminal punishment and, possibly, control over its execution. Determining types of other measures of the criminal legal impact should be recognized as the subject of exclusive competence of the national justice authorities in order to prevent violations of state sovereignty and interference in internal affairs of the country concerned" [17].

The domestic legislation requires detailed regulation of the criminal legal impact forms for the law enforcement officer not to go beyond the limits.

Conclusion

Certain systematization of the criminal legal impact forms in the criminal law is necessary. First of all, the law should define that the criminal legal impact is the application of measures defined by the criminal law to a person who has committed a crime in order to prevent violations of criminal law prohibitions and maintain law and order. The criminal legal impact forms should also be determined as follows:

1) punishment carried out with the help of correctional influence means (regime, labor, training, educational work);

2) probation with subsequent control;

3) compulsory medical measures;

4) confiscation of property;

5) exemption from criminal liability, including subject to the subsequent application of certain measures (a court fine);

6) release from punishment with subsequent control or application of coercive measures of educational influence;

7) criminal record.

It is noteworthy that the proposed list lacks placement of a minor in a special educational institution of a closed type due to its inclusion in the composition of compulsory measures of educational influence.

The proposed changes require further elaboration and substantiation, as well revision of other provisions of the General Part of the Criminal Code of the Russian Federation.

The conducted research is of interest from a theoretical and practical point of view, as the author tried to systematize the scattered knowledge about the criminal legal impact and work out approximate measures to improve this area of state activity.

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INFORMATION ABOUT THE AUTHOR

EKATERINA N. BARKHATOVA – Candidate of Sciences (Law), Associate Professor, associate professor at the Department of Criminal Law and Criminology of the East Siberian Institute of the Ministry of Internal Affairs of Russia, Irkutsk, Russia, ekaterinabarhatova1997@gmail.com, https://orcid.org/0000-0002-0381-5462

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Changing the Category of Crime by the Court as a Means to Individualize Imposition of Criminal Punishment

ELINA A. BABAYANTS
Moscow City Court, Moscow, Russia, eli.fart@mail.ru, https://orcid.org/0000-0002-5126-2014

Abstract

Introduction: the article discusses the procedure and grounds for changing the category of crime by the court to a less serious one in conditions where there are reasons for applying the specified norm to individualize punishment. The norm of Part 6 of Article 15 of the Criminal Code of the Russian Federation is often criticized in literature and is the subject of specialists' discussion. *Purpose:* based on the analysis of scientific literature and judicial practice, to show the possibilities of punishment individualization by recognizing a crime less grave in accordance with the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation. *Methods:* historical, comparative legal, statistical, empirical methods of description, interpretation; theoretical methods of formal and dialectical logic. The following private scientific methods were used: the legal-dogmatic and the method of interpretation of legal norms. *Results:* the work conducted reveals researchers' opinions about redundancy of the norm regulating the change in the category of crime. Nevertheless, this rule should be recognized as necessary, as it entitles the court to make the right decision in non-standard situations. The rule under study may be used to individualize punishment for members of organized criminal groups, depending on their degree of involvement in criminal activity and the public danger of their actions. *Conclusions:* to promote individualization of punishments in the domestic criminal law, it is necessary to expand the possibilities of applying Part 6 of Article 15 of the Criminal Code of the Russian Federation, having supplemented the Resolution of the Plenum of the Supreme Court of the Russian Federation with an appropriate paragraph providing for the application of this norm when considering cases in a special order in connection with the conclusion of a pre-trial cooperation agreement with the defendant.

Keywords: criminal legislation; changing the category of crime; categories of crimes; punishment individualization; public danger of crime.

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Effective application of the criminal law norms is a necessary condition for protecting human rights and freedoms, as well as interests of both an individual and the society as a whole. A key direction of the modern criminal policy development is humanization of criminal legislation, understood as a direct consequence of implementing important principles of criminal law, such as legality, justice and humanism. Respecting the humanism prin-

ciple, criminal punishment is aimed at correcting a convict, restoring justice in public relations, and preventing new offenses, but in no way revenging or penalizing. Among the legal tools that serve to humanize the criminal law, we should note the retroactive effect of mitigating punishment norms, amnesty, and the establishment of milder punishments in compliance with the conditions specified in the law.

Introduced in 2011, Part 6 of Article 15 of the Criminal Code of the Russian Federation, is a measure humanizing criminal legislation. The provisions of this article allow the court, in some cases specified in the law, to change the category of crime to a less serious one.

The categories of crimes provided for in Article 15 of the Criminal Code of the Russian Federation, predetermining formally permissible limits for assessing acts of the relevant group, at the same time encourage the court to make variable criminal law decisions. A clear example of this was the right granted to the court to reduce the category of the crime, which significantly affects the scope of criminal responsibility of the guilty person.

The provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation grant the court the right to change the category of crimes of moderate gravity, grave and especially grave to less serious ones, in the case when the defendant is sentenced to no more than three, five or seven years of imprisonment, respectively, or a milder punishment. It should be noted that courts hardly use this rule – only in about 0.5% of cases of conviction for crimes of moderate gravity, grave or especially grave categories [9].

The mechanisms to apply the above norm are specified in the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 10 of May 15, 2018 "On the practice of courts' application of the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation", Paragraph 2 of which, in particular, stipulates that "in resolving this issue, the court takes into account a method of committing crimes, degree of realization of criminal intentions, role of the defendant in the crime committed in complicity, type of intent or type of negligence, motive, purpose of the act, nature and size of the consequences, as well as other factual circumstances of the crime affecting the degree of its public danger. The court can conclude about the existence of grounds for applying provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation, if the actual circumstances of the committed crime indicate a lesser degree of its public danger".

The concept of public danger can be hardly ever interpreted unambiguously. By its very nature, it is intended specifically for assessing various legal situations, which can often be atypical. Accordingly, they can hardly be assessed on the basis of standardized strict norms. Y.E. Pudovochkin defined public danger as follows: "Being an internal property of an act, public danger, at the same time, is an evaluative sign. An act is assessed as dangerous at two levels: at the level of the legislator when determining criminalization of an act and at the level of the law enforcement officer when choosing an optimal form for realization of the subject responsibility's" [19, p. 155]. Disputes about the degree of public danger of certain committed acts and the measure of punishment for their commission do not subside both in our country and abroad (for example, in the USA there is an active discussion about the frequency of sentencing in the form of life imprisonment for violent crimes). In their publication, M. Bagaric and J. Svilar justify the proportionality of the sentence of life imprisonment for first-degree murder. At the same time, the authors point out that such a penalty is excessive for other crimes that do not entail such dangerous consequences, and suggest considering the possibility of abolishing the practice of assigning this type of punishment for crimes less serious than first-degree murder [26].

Formally, almost every sentence considers the very possibility of applying the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation. Nevertheless, the court hardly ever changes the category of crime to a less serious one, in accordance with this article [20, p. 66]. According to sample studies, the use of Part 6 of Article 15 of the Criminal Code of the Russian Federation is found in only 1.7% of sentences, or in 5 cases out of 300 considered. According to the 2021 statistics of the Judicial Department at the Supreme Court of the RF, the courts of general jurisdiction applied Part 6 of

Article 15 of the Criminal Code of the Russian Federation only in 6,987 cases out of 769,948 completed ones, that is, 0.91% of the cases. In 2020, this article was applied by the courts even less often: in 0.59% of the cases [22].

It should be noted that in the system of norms of the Criminal Code of the Russian Federation, the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation have a special character, and can be applied only in exceptional situations [18]. Thus, a criminal case must have certain features and circumstances (facts) for their application.

D.S. Dyad'kin describes the grounds for applying the rule of Part 6 of Article 15 of the Criminal Code of the Russian Federation, such as exceptional factual circumstances of the crime, and an exceptional degree of public danger of the act. Factual circumstances of the crime should be understood more broadly than just as a set of facts established in the case, simultaneously testifying to both the act itself and its criminality. These should include any circumstances related to the definition of vital facts, phenomena of reality, forming in this particular case the actual basis for applying the norm under discussion" [6, p. 23].

It should be noted that the discussion about the need for further individualization of sentencing is conducted not only in Russian scientific circles. Western researchers also draw attention to the need for additional study of all the evidence in order to identify mitigating circumstances, which will allow a more balanced approach to both the prosecution and defense of the defendant. According to J.B. Meixner Jr., the sentencing process in American courts should be reformed towards greater individualization of sentencing. The author proposes to achieve this by conducting deeper investigation of all facts and examination of evidence, as well as presenting mitigating circumstances so that they can be of effective assistance to the defender in the trial [28]. At the same time, another author emphasizes that the introduction, for example, of mandatory minimum sentences in the United States forces judges to impose minimum prison sentences solely on the basis of charges brought against the accused by prosecutors, deprives judges of the opportunity to exercise discretion and make individual court decisions in each specific case. Since the introduction of mandatory minimum punishment, many unjustifiably harsh sentences have been imposed, including for nonviolent crimes, as well as against criminals who have not been previously convicted [29]. Of course, such a practice, which provides for the same approach to everyone, without taking into account all circumstances of the case, should be avoided in domestic justice.

Taking into account special circumstances of the category change, it is reasonable to consider correlation of Part 6 of Article 15 of the Criminal Code of the Russian Federation and Article 64 of the Criminal Code of the Russian Federation, stipulating "exceptional mitigating circumstances that significantly reduce the degree of public danger of a crime". The Plenum of the Supreme Court of the Russian Federation in the Resolution No. 10 of May 15 , 2018 emphasized that "the court's application of Article 64 of the Criminal Code of the Russian Federation does not prevent a change in the category of crime in accordance with Part 6 of Article 15 of the Criminal Code of the Russian Federation, these norms are applied independently, since the law provides for various grounds for this".

Based on the current practice of law enforcement, it can be noted that the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation are confidently applied by courts, although their application is not widespread due to their exceptional properties. They deserve a certain place in the system of means of individualizing criminal punishment. The basis for discussing problems of the practice to apply Part 6 of Article 15 of the Criminal Code of the Russian Federation is the recognition of the fact that, despite the complexity of existing criminal law norms on categorization of crimes, these prescriptions should not be interpreted as violating the constitutional rights and freedoms of citizens. The Constitutional Court of the Russian Federation considered citizens' appeals regarding compliance of Article 15 of the Criminal Code of the Russian Federation with the basic law. However, none of the cases had any signs of contradiction to the Constitution in the criminal norms under consideration. At

the same time, the Court formulated an important basic thesis: "In the Criminal Code of the Russian Federation, the type and size of the punishment provided for them are used as a criterion for categorizing crimes, which serve as external formalized indicators reflecting the nature and degree of their public danger" [12]. The Court repeatedly emphasized the fact that in this case it refers to the amount of the maximum penalty established in the sanction of the relevant article of the Special Part of the Criminal Code of the Russian Federation, and not to the amount of punishment actually imposed on the defendant.

That is why the opinion repeatedly expressed in the literature that the norm of Part 6 of Article 15 of the Criminal Code of the Russian Federation contradicts the principle of legality raises fair doubts. L.O. Kuleva substantiates this point of view, as "it is the legislator who develops the article sanction, determining the content of a particular category, as well as criminal legal consequences. In case of a change in the category of a crime, the court casts doubt on the sanction of the article, establishing a different category" [8, p. 56].

However, we are not talking here about a routine and daily change in the category of a crime, but about exceptional cases, when the use of the norm of Part 6 of Article 15 of the Criminal Code of the Russian Federation is not to cancel the sanction of the applied article of the Special Part of the Criminal Code of the Russian Federation, but only to individualize punishment for the convicted person to the necessary extent [6, p. 25; 19, p. 80].

As indicated in the Resolution of the Plenum of the Supreme Court of the Russian Federation, when the category of crime is replaced by a less serious one, the legal consequences for the convicted person will be determined with regard to the changed category of crime. This recommendation of the Supreme Court, which is addressed to inferior courts, emphasizes the great importance of the role of judicial authorities in determining the public danger of a crime. According to A.M. Gerasimov, the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation provide the court with additional opportunities to give maximum objective assessments to criminal acts, minimizing the issuance of standard, cliched decisions [5, p. 56].

Besides, L.O. Kuleva argues that the norm of Part 6 of Article 15 of the Criminal Code of the Russian Federation duplicates other articles of the same Code, in particular, Article 64 of the Criminal Code of the Russian Federation on circumstances that reduce a degree of public danger [8, p. 85]. However, in accordance with the clarification given in the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 10 of May 15, 2018, various grounds are provided for using these articles, therefore, they can be applied simultaneously.

Based on a comparative analysis of the mentioned norms, it can be concluded that, although the grounds for their application have some common features, there are the following differences:

– Article 64 of the Criminal Code of the Russian Federation can be applied to crimes of minor gravity, whereas Part 6 of Article 15 cannot;

– Article 64 of the Criminal Code of the Russian Federation cannot be used in relation to certain crimes specified in Part 3 of Article 64 of the Criminal Code of the Russian Federation, whereas Part 6 of Article 15 is applicable;

– Article 64 of the Criminal Code of the Russian Federation is applied in the presence of aggravating circumstances, whereas Part 6 of Article 15 is not;

– Article 64 of the Criminal Code of the Russian Federation, unlike Part 6 of Article 15, stipulates active assistance of a group crime participant in the disclosure of this crime;

– Article 64 of the Criminal Code of the Russian Federation provides for mitigation of punishment below the lowest limit of the sanction or imposition of a milder punishment than specified in the sanction, or non-assignment of additional punishment provided for as mandatory, while Part 6 of Article 15 of the Criminal Code of the Russian Federation can be applied when imposing punishment within the limits established by the sanction of the applicable article of the Special Part of the Criminal Code of the Russian Federation, taking into account the maximum amount of punishment specified in the article itself.

When circumstances of the case suggest the existence of grounds for using both norms, and there are no legally defined obstacles to the application of Part 6 of Article 15 of the Criminal Code of the Russian Federation, it should be assumed that the court is entitled to impose a more lenient punishment than established for this crime, and at the same time change the category to a less serious one.

Proceeding from the premise that the norms of Article 64 and Part 6 of Article 15 of the Criminal Code of the Russian Federation are intended in criminal law to solve different tasks and do not compete with each other, the same facts and circumstances of the criminal case can be taken into account for their application.

In general, it should be noted that although courts, as a rule, are not ready to apply Part 6 of Article 15 of the Criminal Code of the Russian Federation, at the same time, such an opportunity changes a lot for the defendant, for example, from the appointment of a type of correctional facility to the chance to be released early. It is necessary to use this rule at least occasionally, relying not just on mitigating circumstances of the case, but on exceptional ones. This will bring us closer to solving the problem of individualizing criminal punishment.

In this sense, we should turn to the criminal legislation of the Republic of Kazakhstan. It is a vivid example of the fact that the legislator takes another approach to individualization of sentencing. In this case, the emphasis is not on the category of the crime itself, that is, not on the degree of its public danger, but on the presence or absence of mitigating circumstances. Article 55 of the Criminal Code of the Republic of Kazakhstan [24] exhaustively and specifically states in what circumstances and in what amount the punishment should be reduced. Thus, it is provided that the presence of mitigating and the absence of aggravating circumstances is the basis for reducing the penalty for a criminal offense and crimes of small or medium gravity at least by half, for a serious crime – by no more than 2/3, and for a particularly serious crime – by no more than 3/4 of the amount established by the relevant article of the Special Part of the Criminal Code.

The provisions of the Criminal Code of the Republic of Kazakhstan were supplemented by the Normative Resolution of the Supreme Court of the Republic of Kazakhstan No. 4 of June 25, 2015, indicating the need to take into account not only the severity of the crime established in Article 11 of the Criminal Code of the Republic of Kazakhstan, but also the totality of circumstances accompanying its commission, such as motives, goals, method of commission, form of the criminal's guilt, stage of the crime, public danger of the consequences, etc. Also, the Resolution draws the courts' attention to the fact that the rules on the imposition of a more lenient punishment can be applied only in the presence of exceptional mitigating circumstances, which, first, reduce the degree of public danger of a criminal act, and second, indicate positive characteristics of the defendant from a socio-moral point of view. The last circumstance about moral appearance of a criminal is a significant difference from similar Russian norms and their interpretations, in which there is no reference to characteristics of the criminal's personality as such.

This approach certainly has both positive and negative properties. In particular, some Kazakh jurists believe this issue to negatively affects sentences related to certain crimes. For example, there are situations when almost the same punishment is imposed on members of a criminal group performing roles completely different in importance and social danger (for example, an organizer and a minor perpetrator), for the sale of narcotic substances by one criminal in the amount of one gram, and by another – several kilograms of the same substance [3].

Unlike the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Kyrgyz Republic [23] directly establishes basic principles of the criminal law, including the principle of individualization of liability and punishment.

At the same time, the 2021 criminal legislation reform carried out in Kyrgyzstan in fact, removed many means of differentiation and individualization previously introduced. Thus, the Criminal Code of the Kyrgyz Republic, adopted in 2017, was abolished. Acts that had been considered offences were transferred to the category of less serious crimes.

Article 19 of the Criminal Code of the Kyrgyz Republic fixes four categories of crimes: minor, less serious, grave and especially grave, the classification is traditionally based on the terms of imprisonment assigned to these categories.

In addition, in 2021, the institute of a cooperation agreement was abolished in Kyrgyzstan, since, according to the legislator, the presence of such an institute led to a significant decrease in the quality of investigative actions [1]. Thus, it seems that these provisions of the criminal legislation of the Kyrgyz Republic reduce the importance and role of the principle of individualization of criminal liability and punishment.

It seems that the expansion of the use of Part 6 of Article 15 of the Criminal Code of the Russian Federation is possible, in particular, in the sphere of sentencing persons who participated in organized groups or criminal communities. Hearing of cases of crimes committed by a group of persons or an organized group, or a criminal community, is always characterized by increased complexity, due to additional consideration of the facts related to determining forms of complicity, roles of each member of the criminal group in the commission of crimes, forms and degrees of guilt of each of them.

In the literature, it is customary to talk about organized forms of crime as phenomena with increased social danger. According to D.A. Yankovskii, this is mainly due to the fact that criminal associations form and operate much more stable antisocial ties of a criminal nature between individual criminal elements, and in this way a special "collective" subject of criminal activity appears [25, p. 117].

According to Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation, application of Part 6 of Article 15 of the Criminal Code, requires, among other factors, consideration of the defendant's role in the crime committed in complicity. However, it seems to us that this formulation is insufficient for forming law enforcement practice in this area.

Criminal organizations and communities differ in a certain distribution of roles and functions between participants according to the established unwritten hierarchy and the degree (prescription) of involvement in criminal activity. Accordingly, the division of income from illegal activities occurs between them also in accordance with this structure and hierarchy. Mandatory features of both the criminal community and the organized group are the following: mandatory identification and definition of the goals of joint activities; detailed elaboration and planning of criminal actions; a hierarchical structure and distribution of roles among criminal community (criminal organization) members; strict discipline with unconditional subordination in the management system; organizers' active efforts to create a system for counteracting various control levels [7, p. 78].

Therefore, when considering cases concerning crimes committed by organized groups of criminals, the court has to determine, among other things, the position of each of the accused in the hierarchy of the community and the degree of complicity. This circumstance in itself sufficiently complicates the process of adjudication in such cases. During the preliminary investigation, it is necessary to establish the degree of guilt and identify the specifics and degree of actual participation of each of the accused in the commission of a crime. At the same time, a person is often involved in the criminal activity accidentally, against his/her own will, through threats, deception, blackmail, under the influence of delusion or not fully realizing consequences of his/her actions. Accordingly, personal responsibility of each person should be determined with regard to all the circumstances set out.

In order to counteract precisely group forms of crime, including latent, socially dangerous criminal phenomenon, the institute of pre-trial cooperation agreement (Paragraph 61 of Article 5 of the Criminal Procedural Code of the Russian Federation). Its effectiveness is achieved through promotion of positive post-criminal actions of the accused, who acquires favorable criminal legal consequences established in the agreement [2, p. 56]. In terms of effectiveness and frequency of application, it can be compared with plea bargaining in the US criminal law [27, 30].

It can be said that the application of a special procedure for considering the case when concluding a pre-trial cooperation agreement

with the accused is a compromise way of both consideration by the court and preliminary investigation of a criminal case. At the same time, assistance of the suspect or the accused to preliminary investigation bodies, as B.T. Bezlepkin notes, should be characterized by such signs as activity, interest and conscientiousness. This, in the researcher's fair opinion, is the legitimate purpose of this agreement [4, p. 233].

We also believe that the institution of a pre-trial cooperation agreement was introduced to establish a mechanism for effective counteraction of organized crime. It was assumed that this mechanism would serve as an obstacle to illegal activities of criminal groups and communities, since their participants often withhold information about criminal activity organizers and their accomplices under the fear of revenge. The norms on the pre-trial cooperation agreement allow investigative authorities to legally provide state protection measures and mitigation of punishment to participants of organized criminal groups and criminal communities in exchange for providing information about accomplices, planned crimes, criminal connections and contacts in the group (community).

According to E.Z. Sakaeva and E.E. Musina, the essence of the pre-trial cooperation agreement is reduced to a special way of investigating and solving the most dangerous and serious crimes (contract murders, banditry, illicit trafficking in narcotic drugs, weapons, corruption crimes, etc.), by encouraging the accused to actively cooperate with the investigative authorities [21, p. 87].

We studied 90 sentences, issued in a special order of the case consideration, with the application of Chapter 40.1 of the Criminal Procedural Code of the Russian Federation on the conclusion of a pre-trial cooperation agreement. Among them there is a relatively small proportion of sentences, in which the court found it appropriate to apply Part 6 of Article 15 of the Criminal Code of the Russian Federation and change the category of crime. In particular, the grounds were the following:

– the defendant was found guilty of committing crimes under paragraph "a" of Part 5 of Article 290, Part 1 of Article 291.2 of the Criminal Code of the Russian Federation. The category of the crime under paragraph "a" of Part 5 of Article 290 was changed from especially grave to grave, she was sentenced to the 3-year imprisonment with serving a sentence in a correctional facility of general regime and deprivation of the right to hold positions in public service, local self-government bodies with organizational and administrative and economic functions for a period of 4 years and the fine to the state revenue in the amount of 70,000 rubles [14];

– the defendant was found guilty of paying a bribe for processing documents confirming the veterinary safety of farm animals under Part 5 of Article 291 of the Criminal Code of the Russian Federation, and the fine of 3,000,000 rubles was imposed. The court, on the basis of Part 6 of Article 15 of the Criminal Code of the Russian Federation, found it possible to change the category of the committed crime from especially grave to grave [17];

– the defendant was found guilty of unlawful deprivation of liberty, violation of the inviolability of the home, and extortion. The court found it necessary to change the category of this crime from especially grave to grave, on the basis of Part 6 of Article 15 of the Criminal Code of the Russian Federation. The final punishment was imposed in the form of imprisonment for a period of four years, without a fine and without restriction of freedom [16];

– the defendant was found guilty of committing four crimes under Part 3 of Article 159 of the Criminal Code of the Russian Federation. The court, guided by Part 6 of Article 15 of the Criminal Code of the Russian Federation, considered it possible to change the category of four crimes committed by the defendant to a less serious one (from grave to the category of medium gravity). The final punishment was be imposed on the totality of crimes by partial addition of prescribed punishments in the form of imprisonment for a period of three years. In accordance with Article 73 of the Criminal Code of the Russian Federation, the sentence imposed on the defendant was changed to suspended, and a two-year probation period was established [15].

It should be noted that most of the mentioned court sentences relate to cases of corruption and economic crimes: bribery or mediation, fraud, and extortion.

The most severe punishment in the form of actual imprisonment was imposed in the

criminal cases, when there was several episodes of criminal activity, with the defendant using her official position, or where there were other crimes, such as illegal deprivation of liberty and violation of the inviolability of the victim's home.

With all the numerous sentences in cases concerning articles of Chapter 25 of the Criminal Code of the Russian Federation, in particular, illicit trafficking in narcotic drugs and psychotropic substances, the court hardly ever uses provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation.

Of the total number of court decisions considered in the framework of this study, there was one in which the court established grounds for changing the category of crime from especially grave to grave. The court took into account, among other things, a degree of realization of criminal intentions (the crime was not completed), non-occurrence of particularly serious consequences, commission of a crime for the first time and young age of the defendant [14]. In the operative part of the verdict, the court decided to find the defendant guilty of committing a crime under Article 30, Part 3, paragraphs "a", "d", Part 4 of Article 228.1 of the Criminal Code of the Russian Federation, impose a sentence of imprisonment for a period of 4 years in the general regime correctional facility, changing the category of crime from especially grave to grave. So, the change in the category affected the type of a correctional institution for serving the sentence.

Thus, it can be noted that the application of Part 6 of Article 15 is rather difficult or seems impossible in relation to violent crimes, as well as crimes against public health and public morality. Taking into account the increased public danger of these crimes, in our opinion, it is difficult to determine which exceptional mitigating circumstances may prompt the court to consider the issue of individual mitigation in sentencing.

At the same time, as mentioned above, the use of Part 6 of Article 15 of the Criminal Code of the Russian Federation in judicial practice is very rare, while the article represents capacities for further development of humanization and individualization of criminal punishment.

Considering the possibility of applying this rule, when the criminal case is considered in a special order with the conclusion of a pre-trial agreement on cooperation and the crime is nonviolent, we would like to draw attention to the following points. Paragraph 7 of Article 317.3 of the Criminal Procedural Code of the Russian Federation stipulates that a pre-trial cooperation agreement should specify mitigating circumstances and criminal law norms that can be applied against the suspect or the accused if the latter meet requirements and fulfills obligations specified in it. Thus, in this case we are dealing with a criminal procedural issue, which in turn covers criminal law, that is, includes application of Part 6 of Article 15 of the Criminal Code of the Russian Federation when considering a case in a special order.

Paragraph 5 of Part 4 of Article 317.7 of the Criminal Procedural Code of the Russian Federation indicates that at the court hearing it is necessary to investigate, among other things, the circumstances that characterize the personality of a defendant, with whom a pre-trial cooperation agreement has been concluded, and the circumstances mitigating and aggravating punishment. The Resolution of the Plenum of the Supreme Court of the Russian Federation No. 16 of June 28, 2012 "On the practice of courts' application of a special procedure for court proceedings when concluding a pre-trial cooperation agreement" [10] also mentions investigation of the circumstances characterizing the defendant's personality, mitigating and aggravating punishment. It is indicated that these circumstances can be established on the basis of additional materials provided by the parties, as well as witness testimony.

At the same time, the law provisions do not clarify the specific purpose of this investigation, thus it seems possible to use results of the court's consideration of these characteristics and circumstances, including for substantiating mitigation of the imposed punishment. So, if there are sufficient mitigating circumstances and personal traits of the defendant, the court has reason to change the crime severity category in accordance with Part 6 of Article 15 of the Criminal Code of the Russian Federation. This approach is confirmed by examples from judicial practice, although quite rare, when, when considering a case in a special order, the court found it pos-

sible to change the category of a crime when passing a guilty verdict [13].

It seems reasonable to recommend to courts, when criminal cases are considered in a special order with the conclusion of a pre-trial cooperation agreement and nonviolent crimes are committed as part of a criminal community (organized criminal group), to apply the rule on changing the category of crime to a less serious one, in accordance with Part 6 of Article 15 of the Criminal Code of the Russian Federation. This approach will ensure achievement of the goal to individualize imposition of punishment for secondary participants in the hierarchy of the criminal community, who perform auxiliary roles and voluntarily cooperate with investigative bodies in order to prevent further criminal activity of the community, to prevent them from committing new crimes.

In this regard, we find it sensible to supplement the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 10 of May 15, 2018 "On the practice of courts' application of the provisions of Part 6 of Article 15 of the Criminal Code of the Russian Federation" with Paragraph 13 of the following wording: "13. When the court considers cases under Chapter 40.1 of the Criminal Procedural Code of the Russian Federation, for example, when the charges are brought against the defendant for participation in a criminal community, the court should individualize and comprehensively assess a degree of participation of the defendant and the impact of the above on occurrence of socially dangerous consequences of the act. If the defendant meets all requirements of the pre-trial cooperation agreement, the court, when imposing punishment, additionally assesses the expediency of applying Part 6 of Article 15 of the Criminal Code of the Russian Federation, taking into account data on the defendant's personality, the scope and nature of charges" [11].

So, the norm of Part 6 of Article 15 of the Criminal Code of the Russian Federation is applied by courts only in exceptional cases when there are special mitigating circumstances. In this case, the court plays an important role in determining a degree of public danger of the act, as well as the threat to society that the defendant's personality represents. The contribution to the development of the theory and applied field of criminal law science is that the conclusions and proposals formulated based on the results of the study are aimed at improving the criminal legislation of the Russian Federation and solving existing problems in law enforcement practice. In particular, there are prospects for expanding the use of Part 6 of Article 15 of the Criminal Code of the Russian Federation in sentencing persons accused of committing crimes as part of criminal communities.

We would recommend courts, when considering criminal cases in a special order, when a person enters into a pre-trial cooperation agreement, charged with committing nonviolent crimes, to apply the rule on changing the category of crime to a less serious one, in accordance with Part 6 of Article 15 of the Criminal Code of the Russian Federation.

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INFORMATION ABOUT THE AUTHOR

ELINA A. BABAYANTS – Second Class Justice Advisor, Assistant to the Deputy Chairman of the Moscow City Court, Moscow, Russia, eli.fart@mail.ru, https://orcid.org/0000-0002-5126-2014

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Russian Accelerated Inquiry: Modern Metamorphoses of the Procedural Form

SERGEI I. GIR'KO
Center for Security Research of the Russian Academy of Sciences, Moscow, Russia
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
syvorina959134@mail.ru, https://orcid.org/0000-0003-0344-0573

SERGEI V. KHARCHENKO
Moscow Academy of the Investigative Committee of the Russian Federation, Moscow, Russia, dsb111@yandex.ru

ALEKSANDR A. DOLGOPOLOV
Kuban State Agrarian University named after I.T. Trubilin, Krasnodar, Russia, Aadolgopolov1@mail.ru

ALTYNBEK M. KAMBAROV
All-Russian State University of Justice (RPA of the Ministry of Justice of Russia), Moscow, Russia, Kambarov75@mail.ru

Abstract

Introduction: recently, the search for accelerated and simplified pre-trial proceedings both in Russia and abroad is a manifestation of the trend to humanize the criminal process. However, the analysis of the stance of procedural law scholars in the scientific literature considered through the prism of international standards of police inquiry does reveal the expediency of conducting an abbreviated inquiry. Defining the *purpose* of the research presented in the article, the authors link the current state of the accelerated inquiry efficiency with the definition of ways to optimize organization of crime investigation and solve a number of problems to differentiate the procedural form of inquiry. The following set of theoretical and empirical methods of scientific cognition of reality comprises the *methodological basis* of the research. Theoretical knowledge is based on the analysis of scientific sources and the authors' reflection on the topic of legislative regulation of an accelerated inquiry; empiricism is derived from the practice of using this form. *Discussion*: the authors of the study evaluate the ongoing discussion in the Russian scientific literature on the problem to consider an accelerated inquiry as an independent procedural form introduced into the Russian criminal process. Development of hybrid models of criminal justice in two continental jurisdictions (on the example of France and Italy) is considered. In the countries of the Anglo-Saxon legal system, such as the USA, Great Britain, Australia, a simplified procedure is usually associated with the conclusion of a plea bargain both at the stage of investigation and legal proceedings. The CIS member states' (Kazakhstan, Belarus, Moldova) approach to accelerated pre-trial proceedings only shortens its term. *Conclusion*: the authors see the solution to the existing problem in bringing domestic practices in line with international standards of police investigation procedures. The study shows that despite discussions of scientists, the accelerated inquiry model introduced in the Criminal Procedural Code of the

Russian Federation, in general, meets the requirements, and organizational measures of the Ministry of Internal Affairs of Russia will allow to spread this practice. The results of the study expand knowledge about the unified procedure enshrined in the Criminal Procedural Code of the Russian Federation and contribute to its further improvement.

Keywords: criminal procedure regulation; abbreviated form of inquiry; international standards; police inquiry; accelerated pre-trial proceedings; accelerated inquiry model; organizational measures of the Ministry of Internal Affairs of Russia; scope of application of accelerated inquiry.

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Introduction. The need to modernize criminal procedures both in Russia and foreign states is caused by the need to take into account internationalization of crime in the context of global globalization and rapid scientific and technological progress, leading to the emergence of new forms of socially dangerous behavior. The cross-border nature of crime is intensified by rapid criminalization of the information and telecommunications sphere. Experts recognize the following leading cyber threats of 2021: spread of backdoor reception in the supply chain, hacking of home systems to enter the office, attacks on cloud platforms, as well as fraud with mobile payments and QR codes [22]. In these circumstances, the need for effective international mechanisms and closer cooperation between states has been repeatedly noted by the United Nations General Assembly [24]. In November 2001, 43 states signed the Council of Europe Convention on Cybercrime, aimed at improving cybersecurity through development of international cooperation and optimization of investigative mechanisms [16]. The priority direction in most countries' activities remains the tendency to follow the processes of liberalization and humanization of criminal justice. On September 17, 1987, the Committee of Ministers of the Council of Europe signed the Recommendation No. R (87) 18 of the Committee of Ministers to Member States concerning criminal justice simplification, which indicates preliminary investigation limitation, and in some cases its non-necessity [21]. However, international standards in the field of criminal justice and the processes of convergence of continental and Anglo-Saxon legal systems have mainly affected the judicial process and to a lesser extent pre-trial stages.

These and other prerequisites prompted the Russian legislator to search for the most optimal forms of preliminary investigation. The Federal Law No. 23-FZ of March 4, 2013 introduced Chapter 32.1 "An abbreviated inquiry" into the Criminal Procedural Code of the Russian Federation, thus the procedural form of inquiry was differentiated. Although, scientific discussions are still underway between supporters of a single procedural form and supporters of a simplified procedure for investigating crimes [6]. For example, duplication of procedural actions, absence of electronic interdepartmental document flow and timing of forensic examinations and a number of other shortcomings of the criminal procedure legislation prevent reduction of terms in a simplified form of inquiry.

Taking into account the above facts, the relevance of our research is determined by:

– ongoing processes of liberalization and humanization of criminal justice;

– the search for ways to bring together the Anglo-Saxon and continental models of preliminary criminal proceedings;

– the need to differentiate the criminal procedural form and the search for effective simplified and accelerated procedures for preliminary criminal proceedings;

– conditions of criminalization of the information and telecommunications sphere and the corresponding need to establish and develop digital interaction of law enforcement agencies at the domestic and international levels.

Defining the purpose of the research presented in the article, the authors link the current state of the accelerated inquiry effectiveness with the definition of ways to optimize organization of crime investigation and solve a number of problems to differentiate the procedural form of inquiry.

The achievement of this purpose will be facilitated by gradual solution of research tasks: historical and legal analysis of the meaning and essence of differentiation of the procedural form of inquiry in Russia and abroad; identification of organizational shortcomings and problems of the practice of an abbreviated inquiry; determination of prospects for the accelerated inquiry development; analysis of information technologies to support an accelerated inquiry.

Literature review. Having analyzed scientific sources on the research topic for 2016–2021, we determined 3 groups, each of which focuses on certain aspects of the current state of an accelerated inquiry institute.

The first group of sources is related to the problem of finding effective forms of resolving a criminal law conflict by solving the task of criminal proceedings to ensure access to justice and, in general, implement the criminal process humanization concept. This is works of T. Yu. Vilkova [2, p. 167–179], V.M. Gerasenkov [4, pp. 21–25], V.V. Dzhura [8, pp. 10–21], Yu.A. Lyakhov [9, pp. 194–197], D.B. Bazarov [14, pp. 34–37], Sh.F. Fayziev [19, pp. 70–73] and other authors. Trends and vectors for applying a simplified form of pre-trial procedures in Russia and abroad are identified. The authors consider the transformative impact of globalization processes on the national criminal justice development. Convergence and bringing the norms of domestic law into line with international standards corresponds to the principles of democratization and humanization of criminal procedures. According to this group of authors, solution to the problem of improving the efficiency of pre-trial proceedings is to get rid of excessive formalization and bureaucratization. Analyzing key models of pre-trial proceedings in various countries with regard to their affiliation to the Anglo-Saxon or continental legal system, T.Yu. Vilkova emphasizes that "the purpose of any simplified and accelerated proceedings is to eliminate unjustified obstacles to access to justice" [2, p. 168]. V.V. Dzhura studies issues of strengthening guarantees of openness and accessibility of justice, as well as simplifying the procedure for obtaining information about the movement of a criminal case in modern conditions of the information society development. The author comes to the conclusion that "Russia is on the path of gradually bringing the norms of procedural law in line with international standards" [8, p. 10]. Professor Yu.A. Lyakhov (Russia, 2021) notes that "humanity is an essential feature of the criminal process and, accordingly, all transformations should be carried out along the path of humanization" [9, p. 195]. Other researchers share this point of view. For example, a representative of the Tashkent law school D.B. Bazarova (Uzbekistan, 2016) argues that "in the age of information technology, the effectiveness of criminal justice depends on the resolution of criminal cases in a shorter time" [14, p. 34]. Sh.F. Fayziev, discussing issues of improving criminal procedural activities of inquiry bodies also focuses on such a factor as saving the state budget [19].

The second group of scientific sources consists of works of Russian and foreign authors who differently assess prospects for introducing celerant procedures in criminal proceedings of states. A.R. Belkin [1], V.M. Gerasenkov [4], S.I. Gir'ko [6], N.V. Manilkin, E.V. Bykadorova, N.V. Boldyrev [10], A.A. Prokopova [11], B. Coscas-Williams, M. Alberstein [17], S. Egbert, M. Leese [18, pp. 13–17], J. Sorabji, S. Vaughan [22], and E. Yaşar [26, pp. 255–299]. A.R. Belkin and a number of other researchers believe that the "legal regulation contradictions in the abbreviated inquiry procedure (Chapter 32.1 of the Criminal Procedural Code of the Russian Federation cannot be corrected only by introducing amendments. It is necessary to exclude this chapter from the norms of the Criminal Procedural Code of the Russian Federation as not conforming to the rules of criminal procedural evidence and the purpose of criminal proceedings in general" [1]. On the contrary, V.M. Gerasenkov notes that the excessive

formalism of pre-trial criminal proceedings, especially when it comes to crimes of small and medium gravity, hinders access to justice and ensuring the principle of a reasonable period of criminal proceedings [4, p. 21]. The prevalence of celerant criminal proceedings in foreign countries is mostly criticized in foreign scientific press. Thus, A.A. Prokopova is sure that the new accelerated proceedings introduced by the Criminal Procedural Code of the Kyrgyz Republic (institute of accelerated pre-trial investigation; protocol proceedings on criminal offenses; procedural agreement in the form of a plea bargain and writ proceedings) have not created the expected effect over the past five years [11, p. 122]. Assessing the accelerated proceedings introduced in 2019 in the Turkish criminal process, E. Yaşar (Turkey, 2020) writes that, having refused full-fledged proof, the legislator did not strengthen procedural guarantees of the rights of participants in accelerated proceedings [26, p. 255]. B. Coscas-Williams and M. Alberstein in the scientific report of the Faculty of Law of Bar-Ilan University (Israel, 2019) discuss admissibility of simplified criminal proceedings for a limited list of crimes, taking into account mandatory presence of factual prerequisites defined in the law [17]. Scientists D. Johnson and D. Vanoverbeke (Japan, 2020) consider transparency of crime investigation as the crucial goal of reforming the criminal process in Japan. Simplified criminal prosecution procedures are possible only if the penalty for the crime in connection with which the criminal prosecution is carried out does not exceed a fine of one million yen. The report reveals that, unlike most states of the general legal and continental legal families, criminal prosecution in Japan is carried out exclusively by the prosecutor's office. At the same time, the investigation of the prosecutor's office is monitored by the Commission for controlling activities of the Prosecutor's office, a civil control body [20, p. 440].

The third group of scientific sources includes researchers who assess the current state of the abbreviated inquiry from a forensic point of view. We should mention domestic and foreign authors, such as Y.P. Garmaev, E.I. Popova [3], S.I. Gir'ko [5], A.S. Gorban' [7], W. Chen [15, pp. 323–407], F. Al-Asaad [13], L. Soubise [23], A. Vasko [25], D. Johnson, and D. Vanoverbeke [20]. Most authors considering the problem to implement simplified forms of criminal proceedings note that they significantly save time and resources of law enforcement agencies. Scientists of the East Siberian State University Yu.P. Garmaev and E.I. Popova believe that the quality of investigation in simplified proceedings is significantly lower. They attribute this fact to the lack of developed forensic tools. Accordingly, they propose to elaborate a theoretical concept of forensic support for simplified procedures [3, p. 16]. The representative of the Kuban law school A.S. Gorban' suggests an algorithm for producing an abbreviated inquiry in the investigation of thefts [7]. Similar studies are conducted in other countries. W. Chen, relying on the legal community's latest discoveries, presents current trends of accelerated proceedings in the criminal procedure law of China. The specifics of regulating criminal procedural relations there is its party-oriented nature, but this does not prevent the Chinese legislator from following modern international trends. The lack of separation of the procedural form of preliminary investigation in China is due to a shorter duration of criminal proceedings, simplified procedure for authorizing the use of procedural coercion measures and production of investigative actions [15, pp. 323–407]. Professor at the University of Liverpool L. Soubise in the review of the book by J. Hodgson "The metamorphosis of criminal justice – a comparative report" contemplates about fundamental changes in criminal justice in England and Wales. "For example, the person who has committed a crime can be immediately brought to the magistrate's court without pre-trial preparation and a written indictment (oral formulation of the charge). If the accused pleads guilty, other evidence of guilt is not examined by the court" [23, p. 815]. A. Vashko (Slovak Republic, 2020) studies criminalistic features of the use of intelligence data in the abbreviated criminal proceedings. According to him, the abbreviated investigation in Slovakia must be completed within two months from the date of the indictment. In case of a shortened investigation, a protocol of shortened proceedings is drawn up". The author comes to the conclusion that the use of intelligence information in criminal proceedings leads to the reduction of time and is justified by the case-law of the European Court of Human Rights" [25, p. 280].

Drawing a final distinction between what has already been done and what needs to be done, we should mention, on the one hand, the diversity of scientific approaches to shortened procedures of criminal proceedings, and on the other hand, the need for their legislative refinement to the requirements of international standards. The identification of important variables related to the research topic shows that the authors often use a descriptive approach preventing development of a holistic view of improving the accelerated procedural form of pre-trial registration of materials about crimes. Accordingly, it becomes obvious that this problem requires further elaboration, namely, optimization of inquiry bodies' activities.

Materials and methods. The methodological basis of the research was the following set of theoretical and empirical methods of scientific cognition of reality. Theoretical knowledge is based on the analysis of scientific sources and the author's reflection on the topic of legislative regulation of the accelerated inquiry; while empiricism is derived from the practice of using this form.

This article, based on the systematic approach, focuses on revealing integrity of the ongoing processes to modernize criminal procedures in the context of the search for effective international mechanisms of close cooperation between states. Researchers, namely Yu.A. Lyakhov [9], N.V. Manilkin, E.V. Bykadorova, N.V. Boldyrev [10], describe not only characteristic features of international cooperation, but also a wide range of options for optimizing investigative mechanisms.

The authors, using the philosophical method of materialistic dialectics, study pre-trial accelerated proceedings in relation to the general order of criminal proceedings and the tasks to fulfill [1–8].

With the help of general scientific methods of cognition, we obtained new theoretical knowledge about the essence, content and legal nature of the accelerated inquiry. Thus, the use of the analysis method helped reveal problems in the legal regulation of accelerated pre-trial proceedings. Based on the synthesis method, the authors made proposals on theoretical foundations of various accelerated pre-trial proceedings in the criminal procedure.

In the study, the authors also applied private scientific methods of cognition, such as comparative-legal, specific sociological, formal-legal, and historical-legal. The comparative legal method made it possible to compare accelerated pre-trial proceedings in Russia and foreign countries by a number of criteria. The specific sociological one allowed us to study criminal cases, law enforcement practice and procedural law scientists' opinions on the issues of differentiated proceedings. The formal-legal method contributed to the research in the norms of the current Russian criminal procedure legislation regulating accelerated proceedings. Thus, researchers S.I. Gir'ko [5; 6], A.S. Gorban'[7], N.V. Manilkin, E.V. Bykadorova, N.V. Boldyrev [10] and others, with the help of the formal- legal method, identified structural logical elements that are part of accelerated pre-trial criminal proceedings. Organizational and criminological problems were identified. On the basis of these elements, accelerated pre-trial proceedings were classified. The historical and legal method of the study influenced the conclusions regarding the genesis of accelerated pre-trial proceedings within the framework of domestic and foreign criminal procedure legislation.

In general, these research methods were determined by the specifics of its purpose: to identify ways for optimizing investigation of crimes in the form of an accelerated inquiry in the context of the current state of accelerated proceedings in Russia and abroad. Accordingly, methods of observation, comparison and description were chosen as empirical research methods to evaluate theoretical proposals for optimizing the criminal procedural form of an accelerated inquiry.

A typical sample was the main method of sampling criminal cases. The subject of the study was criminal cases of crimes of small and medium gravity, the investigation of which had been conducted in the form of the general and abbreviated inquiry in 2016–2020. For the specified period, we analyzed data of legal statistics on issues related to the investigation of crimes of the above categories published on the official websites of the Judicial Department at the Supreme Court of the Russian Federation, the Prosecutor General's Office of the Russian Federation, the Ministry of Internal Affairs of Russia, and the Federal Bailiff Service of Russia.

Data collection and processing was carried out on the basis of applying the method

of statistical grouping of empirical data and the suggestions were made for its use in conducting research on the problem indicated in the research topic. In order to achieve the accuracy of the statistical grouping method application, the authors determined the feature underlying the division. We proposed the following classification: 1) a qualitative indicator – an accelerated inquiry under a specific article of the Criminal Code of the Russian Federation; 2) a quantitative indicator – grouping of criminal cases for which in 2016–2020 the suspects filed petitions for the abbreviated inquiry.

Results and Discussions. The Federal Law No. 23-FZ of March 4, 2013 introduced Chapter 32.1 "The abbreviated inquiry" into the Criminal Procedural Code of the Russian Federation, which in fact fixed the accelerated pre-trial registration of materials on crimes, unified in procedural form and significantly optimized the inquiry bodies' activities, primarily the police, in a certain category of criminal cases. It is also important for us to evaluate the 2013 innovation dialectically, that is, from different positions and, more importantly, taking into account opinions of researchers and practitioners.

The authors of the study evaluated the ongoing discussion in the Russian scientific literature on the problem of considering the accelerated inquiry as an independent procedural form introduced into the Russian criminal process [1; 5; 6; 7]. The most accessible opinion of the opponents of the abbreviated inquiry is expressed by A.A. Sumin, who believes that this unified procedural form was brought to life by "reformist itch, unbridled and, most importantly, not conditioned by the needs of practice" [12, p. 6]. However, the above opinion is puzzling, since it is the huge number of simple and obvious cases in the proceedings of police interrogators, distracting them from qualitative investigation of crimes with a more complex structure, that required the Ministry of Internal Affairs of Russia to constantly set the Russian legislative bodies the task of introducing a unified procedural form into criminal proceedings. In particular, in this regard, attention should be paid to the law requirement on the mandatory complaint of a suspect to conduct an inquiry in the abbreviated form. It seems that it is quite difficult to get it from the guilty person. Meanwhile, the surveyed practical interrogators do this in the initial protocol of the interrogation of a suspect. The externally complicated procedure regulated by law does not cause any difficulties in practice.

It is worth mentioning that shortly after the introducing the chapter on the abbreviated inquiry into the Criminal Procedural Code of the Russian Federation there appeared certain forecasts, including skeptical, on a number of features of the procedure adopted by the legislator. The authors' research in international standards of accelerated pre-trial proceedings showed that the unified form of pre-trial proceedings introduced into the Russian criminal process largely corresponds to them [5]. A wide prevalence of celerant criminal proceedings in foreign countries makes it possible to identify interest of foreign researchers in them. The Researcher at the Judicial Conflict Resolution Laboratory of the Law Faculty of the Bar-Ilan University V. Coscas-Williams and Professor at the Law Faculty of the Bar-Ilan University, the Chief Investigator at the Judicial Conflict Resolution Laboratory M. Alberstein, having studied development of hybrid criminal justice models in 2 continental jurisdictions (case study of France and Italy), drew conclusions about prospects for accelerated pre-trial proceedings development. France and Italy had different effectiveness of criminal proceedings, ranging from elements of competition and ending with the Inquisition. The French system, having been investigative in nature for a long time, has recently begun to change in the direction of the disappeared investigation. The Italian system, on the other hand, announced a radical transformation into the adversarial structure of judicial proceedings, but at the same time applying mainly non-judicial procedures. This shift did not lead to the disappearance of the litigation phenomenon. [17]. In France, this type of inquiry is generally evaluated positively because it gives the opportunity to quickly establish the fact of a crime, detain a criminal and consolidate evidence until they disappear. Most often, pre-trial proceedings are limited to the investigation of obvious crimes. In Italy, the practice of plea bargains as a shortened pre-trial procedure was introduced by the CPC back in 1998 [5]. In the countries of the Anglo-Saxon legal system, such as the USA, Great Britain,

Australia, the simplified procedure is usually associated with the plea bargain both at the stage of investigation and legal proceedings [10]. In the CIS member states (Kazakhstan, Belarus, Moldova), the approach to the accelerated pre-trial proceedings was chosen, which only allows to shorten its term. So, A.A. Prokopova (2019) notes that in the Republic of Kazakhstan, criminal procedure legislation provides for 4 independent accelerated proceedings (accelerated pre-trial investigation; protocol form of the pre-trial investigation; procedural agreement in the form of a plea bargain; writ proceedings), identical to each other and, moreover, jeopardizing criminal procedural guarantees of human rights [11].

Another problem that is causing discussion in the scientific community concerns the issue of conducting the accelerated inquiry in relation to a specific person, when he/she admits his/her guilt. According to A.R. Belkin, this seems strange. The opinion is also expressed that the "decision on the initiation of such an inquiry is often within the discretion of the law enforcement officer" [1, p. 16]. The authors, meanwhile, do not find it strange to conduct the accelerated inquiry in relation to a particular person. Moreover, the unified inquiry procedure is therefore applied with various simplifications and reasonable deviations from classical, traditional preliminary investigation, because the crime is obvious, the involvement of a particular person in it is beyond doubt and is credible.

We also previously critically perceived the legislator's linking of the issue of possible initiation of an abbreviated inquiry with the suspect's complaint. Such a decision, from our point of view, should be solely the result of the discretion of the inquirer, taking into account all the case circumstances: its evidence, the suspect's admission of guilt, and characteristics of the guilty person. No other circumstances should influence the decision to initiate the abbreviated inquiry.

Meanwhile, we couldn't but take into account the international practice of accelerated proceedings and the police investigation procedures adopted and effectively operating in foreign countries. It should be stated that the evidence of the crime, suspect's admission of guilt and its reliability, guilty person's consent to pre-trial accelerated proceedings are crucial when deciding on the use of simplified proceedings both in the countries of the continental and Anglo-Saxon systems of law.

Problems related to proof are also widely discussed among procedural law scholars. However, in this case we are talking about the crime with a simplified construction of the corpus delicti, in particular, a criminal is detained at the scene of the crime or shortly after its commission and does not pose a significant public danger. In this case, everything, including a proof procedure, proceeds from the procedural economy principle.

Taking into account our contemplations, it is appropriate to give an example from the legislation regulating criminal proceedings in the Russian Empire. Thus, the inquiry purpose is stated in Paragraph 15 of the Instruction of the Prosecutor of the Moscow Judicial Chamber G. Stepanov of October 15, 1909, which entered into force on January 1, 1910: "Under the obligation to detect crimes, police officers, having received statements or information about crime commission, conduct an inquiry to find out whether a crime was committed and, if so, what, when, by whom and under what circumstances" [5, p. 33]. It is quite concise and concrete.

Limits and the proof procedure as elements of the system to work with evidence, when conducting the accelerated inquiry, are also individualized by the legislator. We believe that they fully provide the possibility of applying this procedural form in inquiry bodies' activities. In addition, they largely correspond to the foreign practice of police investigation. However, not all experts in the field of criminal procedure share the stated approach to the problem. In a number of cases, contradictory and even mutually exclusive positions are expressed. So, for example, Yu.V. Frantsiforov defines the "legal component of the features of evidence in the abbreviated inquiry production of in an form as contradicting fundamental rules not only of the evidence theory, but also the principles of criminal proceedings themselves". On the contrary, B.T. Bezlepkin emphasizes that "various simplifications made in the work of proving in accelerated pre-trial proceedings do not contradict the evidence theory" [1, pp. 16–25].

Regarding the positions expressed in various literary sources, it should be noted that the problem of legal regulation, accelerated and simplified, that is, a differentiated pro-

cedural form and its inclusion in the Criminal Procedural Code of the Russian Federation arose at the stage of a significant increase in crime in the Russian Federation. The main burden on the investigation of mass crimes, mainly not related to the category of serious and moderate, fell on the Ministry of Internal Affairs of Russia. The main idea of the unified procedural form is its accelerated and simplified nature. By the way, leading foreign countries use the same "patterns" to similar forms of police inquiry.

Assessing the abbreviated inquiry as quite adequate to the public relations that have developed in matters of countering mass crimes of small and medium gravity, it should be noted that, from our point of view, the legislator has not found an opportunity to consider issues of regulating proving evidence. In particular, in such cases, evidentiary information comes from the same sources that are used during the preliminary investigation.

Meanwhile, within the framework of the accelerated inquiry, it is hardly justified to carry out investigative actions, especially such as forensic examinations, searches, investigative experiments and some others. At the same time, the legislator provided for exceptions from proof procedures used in the preliminary investigation: the failure to conduct a number of investigative and procedural actions, verification of certain evidence, which in itself can be perceived as an independent system of evidence for the accelerated inquiry.

However, we are talking about a different situation, similar to international practices, when within the framework of the abbreviated inquiry, a system of proof unique only for this procedural form would be developed and incorporated into the law. As the main sources of evidence here, it would be possible to use the carriers of evidentiary information contained, for instance, in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation, perhaps some others, but this is definitely a topic of independent research. It is important that such sources of evidence, subject, limits and process proof are unique for the abbreviated inquiry and in their totality are perceived as a proof system, immanent exclusively to this procedural form.

Has the abbreviated inquiry model fixed in the Criminal Procedural Code of the Russian Federation become the tool that ensures prompt investigation of minor crimes and bringing perpetrators to justice? Has an abbreviated inquiry filled the legal niche of unified pre-trial proceedings, which up to 1998 had been occupied by the protocol form of pre-trial preparation of materials? There is no unequivocal answer this question, but it should be noted that from year to year, after the introduction of Chapter 32.1 into the Criminal Procedural Code of the Russian Federation, the scale of the investigation of cases in the form of the abbreviated inquiry is increasing.

According to the Prosecutor General's Office of the Russian Federation, in 2016, a preliminary investigation was conducted for 649,197 minor and 301,001 medium gravity crimes, which amounted to 79.8% of the total number of crimes investigated; in 2018, a preliminary investigation was pursued for 603,524 minor and 270,571 medium gravity crimes, which accounted for 80.3% of the total number of crimes investigated; in 2019 a preliminary investigation was held for 587,817 minor and 252,363 medium gravity crimes, which comprised 79.8% of the total number of crimes investigated. V.M. Gerasenkov notes that the investigation of these groups of crimes according to the same procedural rules "is not always advisable, since in some cases the use of the entire procedural resource and application of the same rather long periods of criminal proceedings are clearly unnecessary" [4, p. 21].

According to statistics and factual information from the Inquiry Department of the Ministry of Internal Affairs of Russia in 2016, the number of cases for which an abbreviated inquiry was conducted amounted to 90,103 (9.0% of the number of registered crimes for which a preliminary investigation is optional), in 2017 – 105,886 (11.1%), in 2018 – 100,805 (12.2%), in 2019 – 82,532 (10%), and in 2020 – 65,237 (8.8%) [7]. At the same time, the abbreviated inquiry quality is characterized by quite high indicators. However, the not so decisive practice of applying Chapter 32.1 of the Criminal Procedural Code of the Russian Federation in recent years indicates certain legislative shortcomings. At the same time, of the total number of criminal cases sent by police interrogators to the court accelerated proceedings reached 28% and increased by 2% only over the past year.

It should be noted that if during the initial period of introduction of the novel inquiry into the Criminal Procedural Code of the Russian Federation, law enforcement officers noted the absence of a unified policy to support accelerated proceedings, at the present time a common strategy has been developed at the level of federal prosecutor's offices and internal affairs bodies aimed at expanding the practice of the accelerated inquiry. Representatives of the Ministry of Internal Affairs of Russia and the Prosecutor General's Office of Russia visit territorial bodies with low indicators of such work. Hence, for 11 months of 2020 in the Penza Oblast Regional Office of the Ministry of Internal Affairs the number of cases of the use of the accelerated inquiry grew by 3.6 times (from 7.4% to 26.7%), and in the Mari El Republic Regional Office of the Ministry of Internal Affairs – by 2.7 times (from 11.8% to 32.1%). Nevertheless, the practice of active use of accelerated proceedings cannot be called well-established to this day. So, with the average Russian indicator of 28%, the share of the abbreviated inquiry in the Regional Office of the Ministry of Internal Affairs in the Republic of Crimea was 66.3%, in the Republic of Adygea – 59.2%, the Tver Oblast – 57%, while in the Kursk Oblast – 8.7%, and the Oryol Oblast – 13.8%.

As a result, we come to the conclusion that the legal regulation of the abbreviated inquiry, in general, is adequate to the tasks this institution faces and reflects international standards of such proceedings. Law enforcement officers, in particular interrogators of the internal affairs bodies (police), take organizational measures in order to spread the practice of the abbreviated inquiry throughout the territory of the Russian Federation, while expanding the scope of such pre-trial proceedings. However, the absence of systematic and clearly formulated forensic algorithms for accelerated pre-trial proceedings result in proceedings formalization, orientation on the accused's admission of guilt and a lack of a full trial in the case. Formation of a criminalistic concept, according to Yu.P. Garmaev, A.A. Prokopova, E.I. Popova, will contribute to maintaining a balance between public interests of applying simplified procedures [3] and, in general, ensuring the purpose of criminal proceedings.

5. Conclusions. Thus, in response to the problematic question stated in the research topic about what is happening to the unified inquiry and the form of criminal procedure regulating it: evolution or degradation, we believe that in comparison with the protocol form of pre-trial preparation of materials on crimes of a certain category, the abbreviated inquiry:

1) has become an important innovative solution that has absorbed many critical comments from scientists and practitioners;

2) is largely brought into line with most international standards and domestic practices underlying police investigation procedures.

The statistical studies demonstrate that the unified procedure fixed in the CPC is not ideal and needs further refinement to a state adequate to those public relations and challenges that will be formed in Russia in the future.

The historical and legal analysis of the inquiry differentiation in Russia and abroad shows that numerous discussions conducted by scientists do not interfere with the ongoing search for effective, simplified and accelerated forms of pre-trial proceedings in various countries. Identified organizational shortcomings and problems of the practice of the abbreviated inquiry promote optimization and efficiency of the model of accelerated pre-trial proceedings in the domestic criminal process.

Determining prospects for the accelerated inquiry development, we can mention 1) the importance of a full-fledged judicial review as a mandatory condition for the use of accelerated pre-trial proceedings; 2) the formation of one common production on the basis of the accelerated pre-trial investigation and production with a concluded agreement with mandatory proof of guilt, regardless of its recognition by the accused; 3) the rejection of the victim's opinion as one of the conditions for applying this procedural form, as well as the exclusion of the possibility of the suspect's subsequent refusal from this shortened investigation procedure. The analysis of possible introduction of digital information technologies to support accelerated inquiry allowed us to emphasize the importance of digital interaction between law enforcement agencies and the population. Creation of uni-

fied and protected digital resources will contribute both to implementing the principle of a reasonable period of criminal proceedings, minimizing the percentage of possible errors and, in general, preventing criminalization of the information and communication sphere.

Such studies encourage development of the interdisciplinary theory of compromises, as well as enrich criminal procedure and criminalistic science and practice. In this regard, scientific development of such areas as digital criminology of organizing investigation, effective forms of criminal proceeding participants' interaction, forensic versions, forensic prevention and other areas synchronized with an accelerated inquiry seems relevant.

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INFORMATION ABOUT THE AUTHORS

SERGEI I. GIR'KO – Doctor of Sciences (Law), Professor, Honored Scientist of the Russian Federation, Director of the Center for Security Research of the Russian Academy of Sciences, Moscow, Russia, Chief Researcher of the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, syvori-na959134@mail.ru, https://orcid.org/0000-0003-0344-0573.
SERGEI V. KHARCHENKO – Doctor of Sciences (Law), Associate Professor, professor at the Department of Criminology of the Moscow Academy of the Investigative Committee of the Russian Federation, Moscow, Russia, dsb111@yandex.ru
ALEKSANDR A. DOLGOPOLOV – Doctor of Sciences (Law), Associate Professor, professor at the Department of Administrative and Financial Law of the Kuban State Agrarian University named after I.T. Trubilin, Krasnodar, Russia, Aadol-gopolov1@mail.ru
ALTYNBEK M. KAMBAROV – Candidate of Sciences (Law), associate professor at the Department of Administrative and Financial Law of the All-Russian State University of Justice (RPA of the Ministry of Justice of Russia), Moscow, Russia, Kambarov75@mail.ru

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Organizational and Legal Aspects of Ensuring Cooperation between Penal Institutions and Religious Organizations

NADEZHDA V. KUZNETSOVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, nadezda17041976@yandex.ru, https://orcid.org/0000-0002-2638-4351

TAT'YANA V. MAKAROVA
Territorial Body of the Federal Penitentiary Service of Russia in the Vologda Oblast, Vologda, Russia, Solnopekova_tvm@mail.ru, https://orcid.org/0000-0002-1951-4461

Abstract

Introduction: the article analyzes domestic normative legal acts regulating interaction between the penal system and religious organizations in terms of realizing the right to freedom of conscience and religion and organizing spiritual and moral education of convicts and persons in custody. The constitutional right to freedom of conscience and freedom of religion is guaranteed to everyone and should also be ensured in the event of a person's conviction or detention. To date, there is a certain regulatory framework. The reform of the Russian penal system is to a certain extent aimed at strengthening and expanding cooperation with religious organizations, requiring adjustment of the existing system of normative legal acts. *Purpose*: to characterize the system of existing domestic regulatory legal acts regulating and protecting this area, identify the shortcomings of legal regulation hindering full-fledged cooperation of the Federal Penitentiary Service of Russia with religious associations, and suggest ways to solve problematic issues. *Methods*: dialectical method of scientific cognition, methods of logical analysis and synthesis, comparative-legal, system-structural, statistical, formal-legal. *Results*: the authors have substantiated the necessity to use capacities of religious organizations belonging to various faiths when implementing educational work with persons in isolation as part of the correction process. The problems of legal regulation of the considered public relations are revealed. *Conclusions*: in order to ensure full cooperation between the penitentiary system and religious organizations in terms of realizing the right to freedom of conscience and religion, it is necessary to improve the regulatory framework, taking into account religious canons and the specifics of activities of penitentiary institutions.

Keywords: penal system; correctional institution; religious organization; cooperation; convicts; persons in custody; legal regulation; punishment; correction; spiritual and moral education.

12.00.11 – Judicial activities, prosecutor's activities, human rights and law enforcement activities.

5.1.2. Public legal (state legal) sciences.

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Humanization of the criminal policy, expressed in the priority assignment of criminal penalties not related to isolation from society, is one of the areas of reforming the penal system. The implementation of this approach, on the one hand, led to reduction in persons sentenced to imprisonment, but on the other hand, deterioration of qualitative characteristics of the personality of criminals serving sentences in penitentiary institutions, since persons with low moral values get there. Unfortunately, most of them are repeat offenders. The statistics of the Federal Penitentiary Service of Russia for 2021 reflect quantitative indicators of the occupancy of institutions. 423,822 convicts served their sentences in correctional facilities, of them, 228,015 people had more than two convictions [3]. The presence of repeated crimes indicates a person's persistent criminal orientation and desire to lead an illegal lifestyle.

At the same time, the basic ideas of the modern penitentiary system are to correct convicts and prevent recidivism [11]. Correction, according to the legislator, should be achieved by forming a respectful attitude towards a person, society, work, norms and rules accepted in society, and promoting a law-abiding lifestyle.

Besides regime requirements as a means of correcting convicts, we should mention socially useful and educational work, opportunities for education and profession, and public influence. The stated goal is successfully achieved, when a former convict denies an antisocial lifestyle and illegal behavior. A special place in the formation of value orientations of persons who have violated the law is occupied by spiritual and moral education, implemented, including through religious influence.

Religion, as a certain system of views, is a type of socio-historical worldview, a form of spiritual culture of the mankind, which includes a set of moral norms and rules of life that unite a huge number of people. To date, religion has penetrated into almost all spheres of life and has an impact on a large range of social relations [14]. The penal system is no exception. Its modern development is impossible without effective interaction with civil society institutions. Therefore, strengthening cooperation with traditional religious organizations, as well as expanding their participation in the spiritual and moral education and upbringing of convicts, persons in custody, employees and members of their families is indicated as the most important direction of the ongoing reform of the penitentiary system.

Nowadays the prison clergy institute is actively functioning in the penal system. Representatives of various religious confessions carry out educational and preventive work in places of deprivation of liberty, thereby participating in correction and re-socialization of convicts. So, to date, 1,477 buildings, structures and premises used for religious rites function in 935 institutions of the penitentiary system. Most premises are used by persons (1,025) professing Orthodoxy. The interests of convicts adhering to Islam (389), Judaism (14), Buddhism (27), as well as other religious movements (22) are taken into account [3].

The need for religious education is emphasized at the legislative level. Thus, the Constitution of the Russian Federation contains guarantees of freedom of conscience and religion for every person (Article 28), and also reserves the right to profess any religion or renounce religious affiliation altogether. It is important that a person's choice is not limited by the legal framework, which makes it possible to interact with religious organizations in various fields of activity, including in the penal system. Today, the church is a popular tool for influencing convicts, which required not only the creation, but also the reform of legal foundations of its activities.

Any legal system will be finally formed and effective only if there is a balanced legislation that performs both regulatory and protective functions. In this regard, the regulatory framework on the basis of which the interac-

tion of the penitentiary system with religious organizations is carried out will be considered through these aspects. The first group includes normative legal acts regulating this activity.

Constitutional provisions on freedom of conscience and religion are reflected in the federal legislation. Thus, the federal law "On freedom of conscience and religious associations" was adopted in September 1997. This normative legal act became the regulator of relations in the field of human and civil rights to freedom of conscience and freedom of religion and determined the legal and civil status of religious associations. This law stipulated the conduct of religious rites in penitentiary institutions and guaranteed the secrecy of confession. Adoption of the document and subsequent amendments to it (2021) adjusted activities of religious organizations and served as a barrier to penetration of destructive sects, pseudo-religious organizations, and foreign missionaries into places of detention [10].

It is important that in order to ensure strict compliance of the current legislation by religious organizations and prevent them from committing illegal actions, the judicial authorities, the prosecutor's office, and other authorized bodies monitor their activities within their competence.

In addition to convicts, persons in custody have the right to freedom of religion. Their interests are protected by the Federal law No. 103 of July 15, 1995 "On the detention of suspects and accused of committing crimes". It explicitly states the prohibition of discrimination on religious grounds and guarantees the possibility of religious ceremonies.

The Russian Orthodox Church has normative documents justifying the need for interaction with the penal system to work with persons who have violated the law, such as the Fundamentals of social concept of the Russian Orthodox church of August 13, 2000, as well as the Mission of the prison service of the Russian Orthodox Church and penitentiary institutions of March 12, 2013 [9]. They emphasize the importance of pastoral and missionary work in places of detention.

The agreement between the Ministry of Justice of the Russian Federation and the Russian Orthodox Church is a significant administrative document in terms of achieving socially significant benefits [2]. It determines the need for the staff of penal institutions to cooperate with representatives of the Russian Orthodox Church in the field of spiritual care, religious and moral education of convicts. The parties pledged to provide all possible support to each other, in particular, create favorable conditions in correctional institutions for church representatives to visit believers, perform prayers and divine services, carry out religious education and upbringing, assist in the construction of temples, chapels, prayer rooms, and provide them with cult items and special literature. It seems that the signing of this document is justified, since it is aimed at creating conditions for productive religious service in institutions of the penitentiary system. In 2017, the cooperation agreement was signed directly with the Federal Penitentiary Service of Russia (hereinafter referred to as the FSIN of Russia).

Similar agreements were also concluded in 2010 with the Russian Council of Muftis, the Federation of Jewish Communities of Russia, and the Buddhist Traditional Sangha of Russia [8]. In the same year, the program for cooperation between the Federal Penitentiary Service of Russia and the Russian Union of Evangelical Christians-Baptists (RUECB) was signed.

Conditions for visiting certain penitentiary institutions and conducting religious activities with convicts are specified in agreements [5] on cooperation with territorial bodies of the Federal Penitentiary Service of Russia and the religious organizations registered in accordance with the established procedure. They determine key issues related to the list of buildings and structures that are planned to be used for religious rites. To date, rites of baptism, penance, anointing, confession, communion, and unction are held in penitentiary institutions, religious literature is distributed, etc. Time limits of rituals, personal data of the clergy who will carry out activities on the territory of a correctional facility, and items used in conducting religious rites are also agreed upon, and a list of relevant literature is discussed. Interaction of the parties to the agreement is carried out free of charge to ensure the right to freedom of conscience and freedom of religion of convicted persons

and persons in custody. Similar agreements have been concluded in all territorial bodies of the Federal Penitentiary Service of Russia.

For example, back in 2018, representatives of the Vologda Diocese of the Russian Orthodox Church and the Territorial Body of the Federal Penitentiary Service of Russia signed the agreement aimed at ensuring freedom of conscience and freedom of religion of convicts who are isolated from society [12]. Priests participate in pedagogical influence, spiritual and moral upbringing and education, restoration of socially useful ties, preparation for release and subsequent re-socialization after serving a sentence.

Effective interaction between the penitentiary system and religious organizations requires revival of the practice of constant cooperation between clergy representatives and correctional institutions that perform the functions of assistant chiefs for organizing work with believers in territorial bodies of the Federal Penitentiary Service of Russia [4].

Unfortunately, despite the work done, there is currently no single normative act that would regulate the legal status of assistants in organizing work with convicts and certain areas of their activities,.

The provisions corresponding to the basic law of the country regarding the rights of persons in isolation to freedom of conscience and religion are contained in the Penal Code of the Russian Federation.

The amendments to Article 14 of the Penal Code of the Russian Federation made in 2015, of course, contribute to realization of this constitutional right, since convicts have the opportunity to freely perform religious rites and listen to sermons. Religious convicts serving sentences in isolation are entitled, without quantitative restrictions, to meet in person with clergymen out of earshot of third parties. Objects of worship and religious literature can be used. There are special premises at correctional institutions. At the same time, it is worth mentioning that the right to freedom of conscience and religion is voluntary. Satisfaction of religious needs should not violate internal regulations of institutions and infringe on the rights of others.

At the same time, it should be noted that the effectiveness of the influence of religion on convicts, the degree of its penetration behind bars depends on the state authorities [11]. While the state guarantees convicts freedom of conscience and religion, there are also certain prohibitions and restrictions related to the type of institution, conditions of serving a sentence and the regime of detention. Thus, the Order of the Ministry of Justice of the Russian Federation No. 110 of July 4, 2022 “On approving the Internal regulations of pretrial detention facilities of the penal system, the Internal regulations of correctional facilities and the Internal regulations of correctional centers of the penal system” fixes certain conditions for the exercise of convicts’ rights. A brief analysis of the Regulations shows that there is an appropriate mechanism for the realization of convicts’ rights to freedom of conscience and religion, taking into account the specifics of places of detention of convicts. First, the conditions for conducting religious rites are defined in agreements on cooperation with territorial bodies of the Federal Penitentiary Service of Russia. Second, only priests belonging to the religious associations registered in the Russian Federation are allowed to enter the territory of a penitentiary institution. Third, religious rites are performed only in places determined by the administration of an institution. Depending on the place and conditions of serving a sentence, these may be residential premises, lockable premises, cells, or corresponding buildings and structures located on the territory of a correctional institution. Fourth, it is forbidden to use piercing and cutting objects of religious worship, including those made of precious metals or having cultural or historical value, during church rites. Fifth, personal meetings with the priest cannot exceed two hours and are held in the presence of an administration employee. If necessary, with the written consent of the priest, a personal meeting (in private) can be held out of earshot for third parties, but using video surveillance. Sixth, the storage of certain substances, for example, intended for communion, is prohibited on the territory of a correctional facility. Their use is possible only during the service.

At the same time, it should be borne in mind that religious influence on convicts differs from other areas of educational work, it is implemented taking into account persons’ individual needs. In order for this activity to be as

orderly and effective as possible, the Regulations contain not only prohibitions. Convicts, wishing to receive spiritual help, can submit a written request for this. Besides, they are allowed to use religious literature located in the institution and have religious items. Convicted persons suffering from serious illnesses are also provided, at their request, with the opportunity to perform necessary religious rites with the invitation of church representatives. On the eve of church holidays, the clergy, with the permission of the institution administration, can transfer to convicts ready-to-eat food (cakes, dyed boiled eggs, dry confectionery) made on the territory of a correctional institution.

The state grants the right to every person to profess any religion or to be an atheist, as well as act in accordance with their beliefs. Religious relations in the system of execution of punishments are also protected under certain provisions of the Code of Administrative Offences of the Russian Federation and the Criminal Code of the Russian Federation. So, administrative liability is provided for obstructing the exercise of the right of persons in isolation to freedom of conscience and freedom of religion in accordance with Article 5.26 of the Code of Administrative Offences of the Russian Federation [1]. This activity entails the imposition of a fine on an individual in the amount of 50–100 thousand rubles. If the offense is committed by a legal entity, the amount of a fine increases to 1 million rubles. It is punishable to publicly desecrate religious literature, objects of religious veneration, signs or emblems of ideological symbols and attributes, as well as their damage or destruction.

Religious activity of an organization without specifying its official full name is qualified as an administrative offense. Issuing and distributing literature and other materials of religious content that have no, insufficient or deliberately false labeling entails the imposition of an administrative fine and confiscation of these items. Religious organizations, foreign citizens and stateless persons engaged in missionary activities in violation of the Russian legislation on freedom of conscience, freedom of religion and religious associations are brought to liability in the form of a fine and administrative expulsion.

Criminal liability is provided for the commission of public actions expressing obvious disrespect for society and insulting believers' religious feelings (Article 148 of the Criminal Code of the Russian Federation). The criminal legal influence measures are differentiated depending on the place of commission of these actions, for example, a place of a religious rite or ceremony. The acts to hinder religious activity, committed with the use of official position or violence are classified by the legislator as particularly qualified, for the commission of which a penalty of imprisonment is provided.

Certain provisions of the criminal law establish liability for committing murder motivated by religious hatred or enmity (paragraph "l" of Part 2 of Article 105 of the Criminal Code), intentional infliction of serious or moderate harm to health for the same reasons (paragraph "e" of Part 2 of Article 111 of the Criminal Code, paragraph "e" of Part 2 of Article 112 of the Criminal Code of the Russian Federation), discrimination of a person because of his/her attitude to religion (Article 138 of the Criminal Code of the Russian Federation), inciting hatred or enmity, humiliation of the dignity of a person or group of persons because of religious beliefs (Article 282 of the Criminal Code of the Russian Federation), etc.

At the same time, the current legislation has certain shortcomings, which in practice cause disputes and may lead to the violation of the right to freedom of conscience and religion of persons in custody and places of deprivation of liberty. For example, the preamble of the law "On freedom of conscience and religious associations" indicates the importance of the Orthodox religion itself, and its special role in the development of the spiritual and cultural heritage of Russia. It is separately noted that other religions are also respected in the country: Christianity, Islam, Buddhism, Judaism, as well as those that are an integral part of the historical heritage of Russia. Pointing out the privileged position of some religions in relation to others that are historically not traditional for Russia can become a prerequisite for discrimination of convicts who identify themselves with non-widespread confessions in the country.

Clergymen actively participate in the process of education, have a positive impact

on convicts, thus affecting not only the operational situation in the institution and moral and psychological climate, but also helping to achieve the stated goals of criminal punishment, that is to correct convicts and prevent them from committing new crimes. A clergyman does not act on behalf of the state and has a neutral status. A benevolent manner of communicating with others can change a criminal's attitude to the committed act, become a powerful incentive for repentance and encourage renunciation of violence and other types of illegal activities. According to some researchers, the appearance of a priest in places of deprivation of liberty causes positive feelings in convicts [13].

The penal legislation contains a list of forms and methods of educational work as a means of correction. These include moral, physical, labor, legal and other effects. In essence, religious influence on convicts differs from other areas of education. It has specific forms and methods and is mainly associated with the performance of religious rites, reading religious literature, prayers, sermons, etc. In this regard, the absence of an indication of religious influence as the main means of correction in Part 2 of Article 9 of the Criminal Code of the Russian Federation does not seem correct.

The activity of religious organizations in penitentiary institutions, according to researchers, has its own characteristics that need to be taken into account. These include isolation conditions, a specific object of influence, and a legal framework [6]. A special role is played by internal regulations that should not be violated when performing religious ceremonies. Unfortunately, there is currently no regulatory act that would specify the issues related to the conduct of appropriate rituals with the participation of persons held in correctional and other penal institutions. Thus, the current legislation does not contain a direct prohibition on the implementation of certain religious rites in isolation, which means that any rite can be held at the request of convicts. At the same time, if it does not meet the regime requirements, there appears a for violating the right to freedom of religion and freedom of speech. For example, when a cleric performs a Judeo-Islamic circumcision rite (an analogue of baptism in Orthodoxy), cutting objects, prohibited by internal regulations, are used. During some liturgies, church sacraments of Communion, Unction of the sick and weddings, red church wine is used, which is classified as prohibited items on the territory of a correctional facility. Also, internal regulations do not allow the use of prayer mats (namazliks), since they do not belong to wearable or pocket objects of a religious cult. For Muslim believers, the problem of studying the Koran in Arabic is critical. Current nutrition norms do not provide for the preparation of individual dishes, consuming or refusal of which is required by one or another religion [7]. Hence, difficulties arise with fasting, cooking halal food, etc. All this may lead to the fact that the observance of church customs will become impossible, and therefore convicts and persons in custody will not be able to exercise their right to freedom of conscience and religion. Another pressing issue that needs to be addressed is the implementation of regime measures: inspections of priests, objects of spiritual purpose, and examination of premises for rituals for finding prohibited items, including with the use of service dogs. According to church canons, a dog is considered an "impure" animal (Canon 88 of the Sixth Ecumenical Council (VII)). Its presence in the room where the divine service is taking place is a serious violation of the canon. Implementation of regime measures may offend religious feelings of believers and desecrate religious shrines, this discouraging convicts to repent and correct.

Thus, the cooperation between the penal system and representatives of various religious denominations contributes to the process of correction of convicts and their subsequent re-socialization. At the same time, the provision of this right has a number of legislative restrictions due to the specifics of the functioning of penitentiary institutions. The absence of normative legal acts regulating activities of representatives of religious organizations in a penitentiary institution decreases the effectiveness of interaction. The solution to the problem is seen in the creation of a single normative act, the provisions of which would be mandatory for both penitentiary institutions employees and clergymen.

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INFORMATION ABOUT THE AUTHORS

NADEZHDA V. KUZNETSOVA – Candidate of Sciences (Law), Senior Lecturer at the Department of Criminal Law and Criminology of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, nadezda17041976@yandex.ru, https://orcid.org/0000-0002-2638-4351

TAT'YANA V. MAKAROVA – Head of the Department of Educational and Social Work with the Staff of the Territorial Body of the Federal Penitentiary Service in the Vologda Oblast, Vologda, Russia, Solnopekova_tvm@mail.ru, https://orcid.org/0000-0002-1951-4461

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On the Concept of Prompt Investigation in Institutions Executing Custodial Sentences

IGOR' A. IVAN'KOV
Kirov Institute for Advanced Studies of Employees of the Federal Penitentiary Service of Russia, Kirov, Russia, iwanckow2011@yandex.ru, https://orcid.org/0000-0002-6414-0702

Abstract

Introduction: the article is devoted to the analysis of scientific sources on the definition of prompt investigation as an organizational and tactical form of law enforcement intelligence operations to ensure maintenance of law and order in correctional institutions. *Purpose*: based on the analysis of literary sources, to develop a definition of prompt investigation for operational units of the penal system to ensure law and order when executing a sentence of imprisonment. *Methods*: comparative legal, empirical methods of description and interpretation, theoretical methods of formal and dialectical logic. *Results*: the analysis of literary sources on the issue under consideration made it possible to formulate the definition of prompt investigation in relation to activities of operational units of correctional institutions to maintain law and order in the execution of custodial sentences. *Conclusions*: the author made proposals on prompt investigation features when executing a sentence in the form of imprisonment, aimed at improving effectiveness of understanding this tactical form of prompt investigation activity.

Keywords: Federal Penitentiary Service; operational units; law enforcement intelligence-gathering activities.

12.00.12 – Criminalistics; forensic examination activities; law enforcement intelligence-gathering activities.

5.1.4. Criminal legal sciences

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Introduction.

As a result of the state policy that expands possibilities of applying alternative criminal penalties not related to isolation from society (restriction of freedom, forced labor), the number of persons held in institutions of the penal system is declining consistently.

As of January 1, 2021, 354.1 thousand people were held in correctional facilities, which is 369.8 thousand less than in the same period of 2010 (723.9 thousand people) [12].

At the same time, despite the decreased number of persons serving sentences in the form of imprisonment, the number of offenses committed in correctional institutions goes up. For example, there was a 24% increase in the registered crimes under Article 321 "Disorganization of activities of institutions providing isolation from society" in 2010–2018.

Further improvement of the activities of institutions executing sentences in the form of deprivation of liberty is possible in case of strengthening the rule of law there.

Let us analyze the rule of law in the execution of a custodial sentence and its elements. The rule of law in correctional facilities should be considered as rules of conduct of participants in public relations regarding execution and serving of a criminal sentence in the form of imprisonment regulated by the norms of law.

The essential elements of law and order in a correctional institution are the following:

1. law and legality as its regulatory and legal basis;

2. administration of a correctional institution, convicts, other persons (judges, prosecutors, relatives of convicts, etc.) endowed with subjective rights and duties are participants (subjects) of legal relations;

3. lawful behavior committed by subjects within the framework of legal relations, which constitutes the content of the rule of law.

In various literary sources, the term "legality" refers to a number of categories: principle of law, method of activity of state bodies and their officials, system of legal norms regulating public relations [25, pp. 454–475; 26; 27].

In our opinion, a fairly accurate definition of legality is given by N.V. Vitruk: "Legality from a functional point of view can be characterized as a principle of building and functioning of the democratic state of law, as a requirement defined by it for the activities of all government structures, bodies, organizations, institutions, public associations, their officials; as a method (means) of exercising power; as a state (regime) of public and state life" [6, pp. 350–351].

In the practical implementation of law requirements, legality acts as a method of directing and managing activities of institutions and bodies executing punishment and officials; more precisely, legality is a special property, qualitative content of this activity.

As a method of activity, legality means that officials of institutions and bodies executing criminal penalties in the form of imprisonment must strictly comply with laws and other regulatory legal acts in their activities. Implementation of legality as an activity method of officials of institutions and bodies executing punishment determines the use of legal norms, and not arbitrariness and subjective discretion, in relations between subjects of penal relations.

As a system of legal norms, legality in the execution and serving of a sentence in the form of deprivation of liberty acts in terms of proper and effective application of prescriptions enshrined in regulatory sources of various legal force by all participants in the criminal enforcement process. Penal law norms are applied in order to regulate social relations arising in the process and regarding execution, as well as serving a sentence, application of corrective measures to convicts. Hence, norms of law regulate execution of punishment necessary for the state and society, ensuring correctional, educational influence on convicts, and their re-socialization; the social value of penal law and its norms is determined.

Law acts as a regulator of public relations through a system of attitudes of proper behavior of participants in these relations. At the same time, in order to maintain law and order, the system of formally defined norms acts as the main category characterizing the state and dynamics of law and order in the execution and serving of punishment. When the rule of law is violated, an offense arises and, accordingly, law and order is shattered. Any violation of the established procedure for serving a sentence is at the same time a violation of the rule of law. The rule of law in the penal enforcement system is the legality implemented in penal legal relations. In other words, the rule of law is achieved only through ensuring legality.

Participants (subjects) of legal relations are another element of maintaining law and order.

In the theory of law, participants (subjects) of legal relations are understood as individuals and legal entities who, on the basis of legal norms, can have subjective rights and legal obligations [25–27].

We believe that when maintaining law and order in correctional institutions, not only penal, but also organizational and managerial, administrative and legal, civil and criminal legal relations arise and develop due to possible preparation and commission of offenses and the need to prevent, suppress and (or) clear them. Therefore, based on the subject of our research, we adhere to the point of view that the subjects of legal relations for the maintenance of law and order in institutions executing punishment are both convicts and the administration of these institutions, as well as other individuals and legal entities who enter into public relations with the administration and convicts.

Taking into account that the penal legislation, in its essence, embodies an ideal model of law and order in the execution of criminal penalties in the form of imprisonment and has the purpose of correcting convicts and preventing commission of new crimes by the convicted and other persons (Part 1 of Article 1 of the Penal Code of the Russian Federation), we can state that the provision of law and order in a correctional institution presupposes the following:

1) prevention of commission of new crimes, both by convicted and other persons. The effective solution of this problem is closely related to the exclusion of offenses in a correctional institution. The legal order is very often linked to a specific level of crime in a correctional institution, and its condition is determined by the dynamics, structure and nature of crimes and other illegal acts committed in the institution. Thus, V.M. Artamonov points out that law and order appear to be the result, on the one hand, of the actions of those who violate, and on the other hand, it is directly dependent on the level of professionalism of law enforcement officials [1, p. 81]. In other words, the rule of law in a correctional institution depends, first of all, on the administration's capacities to prevent offenses and crimes.

2) correction of convicts. Regime is one of the main means to inculcate a respectful attitude towards a person, society, work, norms, rules and traditions of human community in convicts and stimulate their law-abiding behavior in a correctional institution (Part 2 of Article 9 of the Penal Code of the Russian Federation), therefore it is obvious that maintaining law and order is only possible through proper provision of regime requirements.

3) prevention of crimes and offenses committed by personnel of correctional facilities. Activities of the staff of a correctional institution are predetermined by various regulations. The rights and obligations of penal system employees follow from goals and objectives of the penal legislation (articles 1, 3 of the Penal Code of the Russian Federation) and the content of the rights and obligations of convicts (Chapter 2 of the Penal Code of the Russian Federation). Article 13 of the law "On institutions and bodies executing criminal penalties in the form of deprivation of liberty" assigns a number of responsibilities to institutions executing punishments (and therefore to their personnel). Improper performance of functional duties by correctional institution employees affects the state of law and order in an institution, for instance, improper supervision of convicts who are in the premises of detachments by the duty shift at night, untimely or incomplete response to convicts' violations of the daily routine of the institution, etc.

The third key element of law and order in a correctional institution is lawful behavior of subjects within the framework of legal relations, which constitutes the content of law and order.

The analysis of literary sources shows that in the theory of law, lawful behavior is understood as socially useful conscious behavior of subjects of legal relations, corresponding to legal prescriptions [14, pp. 421–423]. At the same time, the subjects of lawful behavior are not only individuals, but also legal entities.

In relation to the subject of the current study, lawful behavior of various subjects of legal relations arising from the maintenance of law and order in a correctional institution is various conscious actions of officials and citizens regarding the execution and serving of a custodial sentence that comply with legal regulations.

In other words, enforcement of punishment is a process of influencing the personality of a convicted person, which in the end should form his/her law–abiding behavior.

Implementation of measures to influence the personality of a convicted person during the execution of a criminal sentence is a process regulated by the norms of law. Of course, this process should proceed in a certain order and sequence, as well as follow common goals and objectives, that is, using methods of implementing legal regulations.

It is the execution of the procedure established by the penal legislation for the enforcement and serving of a sentence in the form of deprivation of liberty by all subjects of legal relations that is the essence of maintaining law and order in the execution of this type of punishment.

Effective performance of operational units for operational and investigative support of the fight against offenses in correctional institutions involves identification of primary, previously unknown, information about persons

plotting, preparing, committing or committed offenses, as well as facts occurring on the territory of correctional institutions (hereinafter – correctional facility and territories adjacent to it) and affecting the state of law and order in the execution and serving of a sentence of imprisonment.

Operational investigative science indicates that identification of persons and facts lies at the heart of law enforcement intelligence operations and serves as a necessary condition not only for the detection of crimes, but also for their prevention [23, p. 51]. Indeed, timely identification of previously unknown categories of persons of operational interest, facts of their illegal behavior is the first stage in the process of combating offenses [10, p. 3; 20, p. 58].

We support this point of view that identification of persons and facts of operational interest acts as a necessary condition for combating *crimes*.

Our position on the issue about *offenses* is determined by the specifics of activities of operational units of the Russian penal system. It manifests itself in the following. Activities of these operational units on the use of operational-search forces, means and methods to combat *offenses* in the institutions under consideration are regulated not only by the operational-search, but also penal legislation of the Russian Federation.

There are the following laws in the field of legal regulation of law enforcement intelligence operations in the execution of sentences in the form of imprisonment are:

– Law of the Russian Federation No. 5473-1 of July 21,1993 “On institutions and bodies executing criminal penalties in the form of deprivation of liberty”;

– Federal Law of the Russian Federation No. 103-FZ of July 15,1995 “On the detention of suspects and accused of committing crimes”;

– Federal Law of the Russian Federation No. 1-FZ of January 8, 1997 “Penal Code of the Russian Federation”.

Previously, we have repeatedly considered issues of legal regulation of law enforcement intelligence operations in institutions that execute sentences in the form of imprisonment [9, pp. 115–134]. In accordance with paragraphs 1, 2 of Article 13 of the Federal Law “On institutions and bodies executing criminal penalties in the form of deprivation of liberty”, institutions executing punishment are obliged to meet requirements of the Russian penal legislation and create conditions for ensuring law and order and legality, safety of convicts and personnel, officials and citizens located on their territories. Article 14 establishes the rights of institutions to monitor compliance with regime requirements at the facilities of institutions executing punishments and territories adjacent to them, as well as to carry out operational investigative activities in accordance with the Russian legislation. The tasks of operational units of the institutions executing punishment in the form of imprisonment are legislatively fixed in Article 84 of the Penal Code of the Russian Federation.

One of the tasks of law enforcement intelligence operations in institutions executing a custodial sentence is to identify, prevent and detect violations of the established procedure for serving a sentence that are being prepared and committed in correctional institutions.

The solution of this problem significantly affects the process of execution of a sentence in the form of imprisonment. This statement can be proved by statistical data on activities of the Federal Penitentiary Service of Russia. In 2020, in employees of correctional institutions impounded more than 499 thousand rubles, of which more than 462 thousand – upon delivery; more than 1,450 liters of industrial alcoholic beverages of which more than 1,390 liters – upon delivery; more than 25,590 liters of artisanal alcoholic beverages; more than 56,300 units of communication equipment, of which more than 25,800 units – upon delivery [18].

Therefore, we find it reasonable to talk about prevention and disclosure of offenses by means of operational investigative activities.

In the theory of law enforcement intelligence operations, the search for primary information is considered as an independent organizational and tactical form. Search for the primary information is its characteristic; all other organizational and tactical forms are based on its results [2, p. 56].

Primary information means previously unknown, and its receipt reduces some uncertainty in knowledge about someone or something. It is this point of view on the concept of

"information" that is most common [3; 5; 11; 13; 16; 28]. Thus, according to Yu.S. Blinov, "these data do not reduce uncertainty or affect the subject's behavior. They remain data until there is a need for them, until they are referred to in connection with the implementation of certain actions or the obligation to make some decision. In other words, to remove the uncertainty that has arisen. Therefore, information is always primary" [3, p. 209].

Primary information is different in its content. At the same time, it contains data previously unknown to operational units about persons prone to committing crimes and violations of the established procedure for serving sentences, facts or events that are important for combating offenses.

Primary information obtained during investigation is one of the main means to cognize various processes (phenomena) associated with illegal activities of persons prone to committing crimes and violating the order and conditions of execution and serving of punishment. So, this information contains objective signs of illegal connection of a person, object, fact or other circumstance with a specific offense or crime as a social phenomenon.

Nowadays, the law enforcement intelligence operations theory has various approaches to defining prompt investigation. S.E. Matveev analyzed more than 10 definitions of prompt investigation and identification of persons and facts of operational interest [15, pp. 188–191]. Without going into their detailed analysis, we emphasize that the lack of a clear understanding of the process of implementing search activities, along with theoretical problems, leads to confusion in approaches to their planning and implementation.

To begin with, we should note that many authors, studying the essence of prompt investigation, divide the received information into primary and secondary [21]. E.N. Yakovets concludes that any subject, including an operational worker, perceives data as information only if they are systematized correctly, evaluated and contain something new [29, p. 74].

Thus, sharing the above point of view, it is possible to talk more about primary and secondary nature of data than information.

The latter, undoubtedly, is an argument in favor of defining the organizational and tactical form of ensuring the fight against offenses in the execution of a sentence in the form of imprisonment, as identification of primary prompt investigation data.

At the same time, this definition is, in our opinion, more concise than "identification of persons and facts of operational interest", since the latter implies not only the process of prompt investigation and receipt of primary data, but also certain actions to verify them.

This definition presumes that after conducting a set of prompt investigation activities, an operational unit of this form should receive exactly new information of operational interest.

At the same time, it can be argued that in the process of data identification and subsequent verification there may be obtained the information about persons and facts that is of no operational interest. There is a certain logic in this remark.

We believe that considering the construction of this definition from the position that the phrase "of operational interest" indicates a requirement for the ultimate goal of the prompt investigation, it does not exclude actions that during this process will filter out information unnecessary for operational reasons.

Thus, the wording "information on the identification of persons and facts of operational interest" seems to us more adequate.

As we have already noted, different authors give different definitions of prompt investigation.

A.S. Vandyshev understands prompt investigation as a system of prompt investigation measures carried out by subjects of law enforcement intelligence operations in order to detect persons, objects and phenomena of operational interest [4, p. 11].

However, in this case preliminary analysis of the situation, verification of the information received, as well as making a decision on its use to combat offenses remain outside the definition.

A.Yu. Shumilov considers prompt investigation as law enforcement intelligence operations for detecting latent crimes and persons who committed them, as well as initially unknown causes and conditions for committing crimes [17, p. 199].

What this definition involves is the crimes that were committed, but remained latent, criminals and initially unknown reasons and

conditions for their commission, but, as in the definition presented above, the author does not take into account the analysis of the situation, the decisions taken, as well as the persons who prepare and commit offenses. Accordingly, it is not possible to take measures to prevent or suppress illegal activities of these persons.

In this regard, we back those authors who divide the process of identifying persons and facts of operational interest in stages in the following order:

– prompt investigation and receipt of primary data;

– their verification;

– decision-making [24, p. 5; 7, p. 4].

However, this approach also lacks preliminary analysis of the operational situation at the search objects.

Achieving positive results depends on each of these stages. But the leading place among them in terms of the amount of work performed is occupied by an prompt investigation aimed at obtaining primary data.

Operational investigative measures provided for in Article 6 of the Federal Law "On operational investigative activities" are conducted by officials of operational divisions of correctional facilities (or other officials and specialists), as well as citizens involved in the search on a public and secret basis. At the same time, information systems, video and audio recording, film and photography, other technical and other means can be used.

All this indicates that the content of the activities to identify persons and facts of operational interest is complex.

At the same time, it should be noted that the conduct of prompt investigation activities aimed at obtaining primary data, from the point of view of the current prompt investigation legislation, raises doubts.

At the same time, if we consider legal regulation of law enforcement intelligence operations in the institutions executing punishment in the form of imprisonment, then the task of *identifying* crimes being prepared and committed in correctional institutions and violations of the established order of serving a sentence is legally assigned to operational units of these institutions. But how can this task be solved?

As it is known, operational investigative activities presuppose the conduct of operational investigative measures (Part 1 of Article 1 of the Federal Law "On law enforcement intelligence operations").

Accordingly, Article 7 of this law specifies grounds for conducting operational investigative measures aimed at identifying illegal acts that are being prepared, being committed and have been committed.

In accordance with Paragraph 2.1 of Article 7, the basis for carrying out prompt investigation measures is certain information that has "become known" to the bodies carrying out law enforcement intelligence operations (if there is not sufficient data to initiate a criminal case). That is, operational investigative measures can be carried out only after receiving primary data.

Of course, no one denies the possibility of obtaining primary data from citizens' statements, reports of officials, etc., regardless of the measures taken to detect them. At the same time, obtaining primary information about latent crimes, intentions of persons preparing crimes or violations of the established procedure for serving and executing sentences, processes secretly occurring among convicts is very problematic. This information is revealed by conducting search activities. The main purpose of carrying out these activities is precisely to identify primary data on such acts and persons involved in their commission. In case if Article 7 of the Federal Law "On law enforcement intelligence operations" does not specify grounds for holding such events, then the question arises about legality of these events.

The considered norm of the federal law "On law enforcement intelligence operations" stipulates the conduct of operational investigative measures when receiving information about *signs of the illegal act being prepared, being committed or have been committed*, as well as about persons preparing, committing or having committed it. However, from the point of view of the legislator, there are no grounds to carry out operational investigative measures at the stage of the intention to commit an illegal act. But this contradicts the legislation norms (Part 1 of Article 2 of the Federal Law "On law enforcement intelligence operations" and Part 1 of Article 84 of the Penal Code) regarding prevention of offenses.

Taking into account the above, we find it reasonable to clarify the grounds for carrying

out prompt investigation measures stipulated in Article 7 of the discussed law.

Researchers considered issues of prompt investigation in institutions executing sentences in the form of imprisonment. E.N. Bilous, for example, notes that search for primary information in a correctional facility is a set of targeted measures aimed at detecting, obtaining, verifying and accumulating information containing new (previously unknown) special knowledge that is important for combating crime and other offenses in the institution [2, p. 57].

However, we believe it misses an important stage, such as decision-making. After discovering, receiving, checking, accumulating new (previously unknown to operational units) special knowledge, it is necessary to make an effective decision, otherwise all the work done will be in vain.

V.I. Potapov, in relation to activities of these institutions, considers identification of persons and facts of operational interest as the process of implementing a set of operational-search, regime, educational and other measures aimed at obtaining primary data of interest to the administration of a penitentiary institution, their verification and decision-making in order to prevent and disclose crimes, detect malicious violators of the regime of serving a sentence and search for escaped convicts [19, pp. 123–132].

A.V. Senatov, analyzing the presented definition, notes that the author has not taken into account one of the tasks of law enforcement intelligence operations, namely: thwarting of crime [22, p. 102].

From our point of view, terms “prevention” and “thwarting” essentially express the same phenomenon, so in this matter we would rather agree with V.I. Potapov.

However, if we are talking about a set of measures carried out by operational units of the penal system in order to obtain information of operational interest to maintain law and order in correctional institutions, then the definition presented needs some adjustment.

To begin with, when conducting prompt investigation in correctional institutions, operational unit employees carry out a set of measures of an prompt investigation, regime and educational nature. This is determined by the fact that they participate in conducting routine and educational measures against convicts, as representatives of the administration of these institutions. At the same time, employees of operational units also participate in conducting educational activities for employees and employees of other units, departments and services of institutions. So, they receive primary data on persons and facts of operational interest for solving tasks. But we are considering the definition of an operational-tactical form of operational-investigative activity, therefore, it is not entirely correct to talk about a set of measures of various nature aimed at obtaining primary data of interest to the administration of a correctional institution, albeit within the framework of maintaining law and order.

Furthermore, the presented definition lacks the analysis of the operational situation in a correctional institution as the basis for activities of the operational unit, and does not specify subjects of prompt investigation.

Therefore, we believe that the process of prompt investigation should begin with the analysis of the operational situation of the objects where it is supposed (planned) to conduct prompt investigation activities aimed at obtaining primary information about persons and facts of operational interest. In relation to the topic of our research, the operational situation in the correctional institution should be analyzed.

At the same time, we agree with the point of view of A.N. Zhuravlev, who comes to the conclusion that the operational situation in correctional institutions is a combination of internal and external conditions (factors) in which their activities are carried out, characterized by qualitative and quantitative indicators affecting the criminogenic situation in them, organization and implementation of execution of punishment in the form of imprisonment [8, p. 34].

Thus, *prompt investigation* in institutions executing custodial sentences should be understood as a process based on the operational situation analysis to implement a set of operational investigative measures carried out by operational units of the correctional facility aimed at obtaining primary information of interest for combating offenses, checking it and making decisions for further use in the performance of tasks that the specified divisions face.

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INFORMATION ABOUT THE AUTHOR

IGOR' A. IVAN'KOV – Candidate of Sciences (Law), Associate Professor, Deputy Head for Academic and Scientific Work of the Kirov Institute for Advanced Studies of Employees of the Federal Penitentiary Service of Russia, Kirov, Russia, iwanckow2011@yandex.ru, https://orcid.org/0000-0002-6414-0702

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Planning Documents to Develop the Russian Penal System in the Period of 2010–2030: Name, Type and Procedure for Entry into Legal Force

OLEG N. DYAD'KIN
Vladimir State University Named After Alexander and Nikolay Stoletovs, Vladimir, Russia, e-mail: krimvggu@mail.ru, https://orcid.org/0000-0003-1887-2977

ANDREI V. KALYASHIN
Vladimir Branch of the Russian Presidential Academy of National Economy and Public Administration, Vladimir, Russia, e-mail: cav71@list.ru, https://orcid.org/0000-0002-9699-020X

A b s t r a c t

Introduction: recently, development of the Russian penal system is based on the conceptual provisions enshrined in legal documents that are the result of strategic planning. The conceptual provisions are being developed in order to achieve the desired state of the penal system in the future and represent a system of views aimed at improving activities of its institutions and bodies. Planning documents set up the final result, as well as priority development directions, as a rule, for a ten-year period according to the national legislation with regard to international norms and standards. *Purpose:* to conduct a comparative analysis of individual conceptual provisions in the terminated and newly adopted planning document aimed at improving the management system; taking into account results of the study, unresolved issues identified during implementation of the conceptual provisions, and positions of scientists and practitioners, to formulate theoretical and practical recommendations for the developers of a new legal document focused on developing the entire system of penal institutions and bodies. *Methods:* the methodological basis of the study is made up of general scientific methods, such as generalization, analysis, synthesis, deduction and induction, a system-structural method of comparison, as well as private scientific means of analyzing normative documents. *Conclusions:* the conceptual documents introduced in recent decades reflecting the leading ideas to optimize activities of the penal system and the chosen direction to execute criminal penalties predetermined the vector of its development. Moreover, the considered system of views has had a significant positive impact on the functioning of the institutions and bodies executing criminal punishment, as well as law enforcement practice. *Results:* the authors have identified unresolved problematic and debatable aspects of conceptual documents related to the implementation of departmental provisions, the form, methods and subjects that put into effect the legal acts under study. Based on the results of the analysis, the researchers made a theoretical conclusion and proposed doctrinal and practical recommendations that can form the basis for working out a new conceptual document occupying a higher position in the hierarchy of legal acts aimed at developing the entire system of institutions and bodies executing punishments.

K e y w o r d s : document; planning; form; method; concept; system.

12.00.14 – Administrative law; administrative process.

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Introduction. Undoubtedly, the implementation of principles of the modern penal policy in the field of executing criminal penalties requires continuous significant transformations, including in the Russian penal system. This, in turn, determines the relevance of the research, need for scientific, based on official legal documents, modeling of the content and stages of development of the system of penitentiary institutions, including forecasting the expected results that should manifest themselves in its new qualitative state. The authors, backing the penal system reforms as a process of improving its activities, find it important to reconsider objectives of the conduct and results of their achievement.

In modern conditions, most developed countries, including Russia, are searching for optimal directions to develop activities of institutions and bodies executing criminal penalties, including in the form of incarceration. The improvement of activities, among other factors, directly affects criminalization of the convict's personality, which is confirmed by foreign researchers. F. Mirić studied causes of the criminogenic influence of penitentiary institutions in the Republic of Serbia in detail and came to the conclusion about the state of stress of all convicts sent to serve a sentence of imprisonment in a penitentiary institution. In his opinion, they have to put an end to their former way of life, live in a closed-type penitentiary institution with a very diverse contingent of prisoners. Due to the loss of freedom, some of the convicts are deprived of the privileges they had outside of prison. In response to these restrictions, they commit new crimes and serve new sentences. For this reason, the time spent in prison, from the author's point of view, can be a sufficient criminogenic factor [15, p. 37].

In the context under consideration, we note a steady trend of introducing official legal documents of the so-called atypical legal nature over the past two decades.

Important components of giving legitimacy to the legal documents under consideration are the form, method and subjects that put them into effect and meet modern realities of life.

Concepts [14] and programs are the documents of atypical legal nature focused on enhancing the penal system.

The introduced conceptual documents are for departmental use. The sphere of application is limited, as the need for their elaboration always comes from the body in charge of criminal penalty execution, and their developers are research and educational institutions under its jurisdiction. Accordingly, provisions of these development documents do not apply to the entire set of institutions and bodies executing punishment, but only to the organizations that are part of the penal system. For example, betterment of punishment execution by bailiffs in the form of a fine remain is not provided for in the document.

In the 1990s, to enter into force, concepts were to be approved by the head of state. Currently, a program is approved by the resolution of the supreme executive collegial body of state power, and a concept by its order. It results in the ambiguity of the subject of giving legal force to the documents under study.

For a more objective characterization of the issue under consideration, it is important to note the position of a number of legal experts who believe nowadays the level of approval of a modern conceptual document has been significantly lowered. So, according to Professor V.I. Seliverstov, a new conceptual document to develop the penal system should be validated by the President of the Russian Federation, since the head of state, by virtue of the Basic Law, defines basic directions of the country's domestic and foreign policy.

Besides, he runs force structures, including the Federal Penitentiary Service, its institutions and bodies [9].

We will conduct a comparative analysis of the documents aimed at the penal system development, approved over the past two decades.

The Concept for the development of the penal system of the Russian Federation up to 2020 approved by the by-law of the Department (hereinafter referred to as the 2010 Concept) expired at the end of 2020. The ten-year period, divided into 3 unequal stages (2010 – 2012; 2013 – 2016, 2016 – 2020), was designed to implement the concept.

The provisions of the 2010 Concept have positive and negative sides. The conceptual document contains original ideas and measures of state influence on persons who committed crimes and were found guilty. At the same time, despite the complexity to implement the conceived intentions in the Russian conditions, some of the conceptual provisions have found their embodiment in practical activities of the penal system. Separation of individuals sentenced to imprisonment for the first time and those who have served a sentence of this type earlier is normatively consolidated and implemented in practice. These measures made it possible to accommodate a larger number of convicts in the region of residence, while reducing costs to transport a special contingent to other Russian subjects.

With all this, it is impossible not to take into account the current situation associated with the inclusion in the 2010 Concept of, at first glance, advanced ideas that in fact do not correspond to real goals and objectives. At the same time, clearly set and relevant goals make the planning document itself realistic [4]. One of the unattainable aspirations was to bring the performance of institutions and bodies executing punishments to European standards for treating convicts. Upgrading organizational structure of the penal system was another important direction of its reforming. In fairness, we should mention the work within the framework of the legal basis concept on changing the profile of correctional institutions, which provides for the creation of isolated areas that operate as prison.

The results of the 2010 Concept implementation show insufficient study of certain provisions and their inconsistency with reality; additions and amendments were introduced into the planning document in 2012 and 2015. To be more specific, the Russian Government's Decree No. 1877-R of September 23, 2015 amended the initial direction for the penal system development associated with the conversion of correctional facilities into prisons [2]. Another deviation from the intended goal was to improve activities of penal institutions and bodies to meet international standards. Besides, this planning document was supplemented with significant provisions to protect convicts' legitimate interests and rights, including their labor rights, thus boosting effectiveness of the 2010 Concept. At the same time, as a result of the changes, the document lost innovative ideas, moving into the category of important, but private improvements. This thesis is supported by P.V. Teplyashin, who argumentatively asserts that the rejection of one of the original core goals – expansion of prisons in the penal system, has entailed the loss of the idea containing a creative meaning in the document under consideration [11].

At the same time, though the issue of reprofiling of institutions is rather neglected, it does not exclude the relevance of the issue on separate placement of convicts in cells or rooms designed for one person to meet recommended international standards [10].

Since the transfer to the prison system is rather costly, during the transition period it seems right to develop a new type of institutions that should combine several types of regime and types of institutions, which in turn should be reflected in the conceptual document [3]. There are a number of Russian and foreign studies devoted to this problem.

R.Z. Useev, at the level of assumption, analyzed issues related to the formation and development of Russian institutions of a unified type. The author studied 3 fundamental areas to improve the institutions under consideration, including spatial development, legislation and law enforcement. Each of these directions was considered from the perspective of unresolved issues [12].

We find it reasonable to study experience of creating institutions of this kind in the penal system of the Republic of Azerbaijan. Thus, N.S. Salaev notes that the State program for the development of Azerbaijani justice for 2009–2013 provided for the construction of a new type of institutions, namely, penitentiary complexes, which include, among other things, a prison model. From the scientist's point of view, institutions that combine several types of regime and types of penitentiary institutions will create conditions for consistent application of the basic guidelines related to separation and individualization of punishment execution. As a result, according to the expert, convicts will be held in cells of penitentiary institutions during the transitional, thus, a new type of prison will be tested [16].

It is rather difficult to assess the degree of scientific elaboration of issues related to the conceptual development of the penal system, while in recent years they have been the focus of close attention of professional communities.

Scientists, law enforcement officers, human rights defenders and former penal system employees positively assess the penal system transformation as a process to improve its activities, accompanied by a change in the properties of institutions and bodies executing punishment.

Yu.A. Reent, having conducted a detailed assessment of its provisions implementation, identifies a number of controversial points in it, unresolved issues, and also focused on the positive results achieved [7].

Other legal experts point out serious shortcomings in the concept, associated with unreal nature of certain provisions. V.B. Malinin, who, having considered key provisions of this document, also concludes about the presence of flaws and impossible proposals in it [6].

The Minister of Justice of Russia K.A. Chuichenko admits that not all the provisions of the 2010 Concept were implemented. According to the minister, the document was largely aimed at eliminating unresolved complex issues in the penal system, which infrastructure had been used for centuries and the depreciation of fixed assets had been more than seventy percent [8]. The 2010 Concept, with the inclusion of truly noteworthy conceptual provisions, a few months later, gave legal force to the Concept for the development of the penal system of the Russian Federation for the period up to 2030 (hereinafter referred to as the 2021 Concept).

The 2021 Concept acts as a kind of sum in strategic planning for the next decade. Among important directions to improve penal system activities, there are measures related to strengthening material and technical bases and enhancing working and living conditions of convicts. The document largely pays attention to the unresolved issue concerning the introduction of administrative probation mechanisms [5]. At the initial stage, the most important task is to consolidate the positive results that have been achieved in recent years due to liberalization of the criminal policy and interaction of the federal penitentiary body with agencies performing law enforcement functions and other public authorities.

Let us compare, without going into details, individual provisions of the concept, which ended in 2020, and the newly introduced one. This will make it possible to comprehend emerging patterns and directions of movement in the sphere of reforming the Russian penal system. It should be noted that the text of the new concept discussed since 2018 had characteristic differences from its final version. In terms of internal construction, they did not differ much. Each document included six sections, which consisted of 13 subsections in the expired Concept and 15 in the draft one (in the process of discussion and adoption). There are 23 sections in the final version of the 2021 Concept.

The approved 2021 Concept fixed only two chronological periods in its execution. Stage 1 (2021–2024) involves preparation of regulatory legal acts focused on fulfilling goals and objectives, as well as adjustment of related targeted programs at the federal level. We should note innovations, such as activities to improve electronic interaction with other state bodies and formation of a probation service.

Stage 2 (2025–2030) is aimed at developing the administration of the penal system. At the same time, the implementation of plans is

to be refined and optimized. Special attention is paid to timely summing up of interim results, which will be the basis for working out a next draft document, determining core directions for further improvement of the domestic system of punishment execution [1].

Among uncertain points in the name of both conceptual documents under consideration, as in many such acts, it is possible to single out the use of the time interval "up to 20 ...". In fact, the wording "up to" does not fix in detail whether the validity time expires at the beginning of the calendar year, or at its end. So, it is possible to determine the time period of the Concepts "up to 20..." in whatever time period it pleases: until the beginning of 20 ... or until its end. From our position, the name of the document should have the interval "for the period of 2021–2030".

Forms of the studied documents are the same (concept), in addition, the term "development" is used in their names, which is equally applied in the name of the Concept of the federal target program "Penal system development (2017–2025)".

Hence, several documents of the same form and name were adopted, distinguished solely by type, period of validity and other words.

A way out of this situation was proposed by R.Z. Useev, who recommended accepting similar documents with different terms and fixed time intervals. In his opinion, the current concept refers to doctrinal legal acts and should be called as the "Penal system modernization concept (2021–2030)" [13].

The 2021 Concept looks like a planning document. However, the current system of legislative acts uses a term "strategic planning document", that is why the legal nature of the concept as a type of document is uncertain.

Thus, the 2021 Concept cannot be attributed to strategic planning documents. Consequently, both it and the expired concept does not meet all the requirements of the Federal Law No. 172-FZ of June 28, 2014 "On strategic planning in the Russian Federation" (hereinafter – the Federal Law No. 172-FZ). At the same time, the Federal Law No. 172-FZ refers other strategic planning documents that meet the stated requirements (Article 20) and were initiated by the President or Government to sectoral strategic planning documents. Hence, the federal target program "Penal system development (2018–2026)" satisfies requirements of the Federal law No. 172-FZ and is the strategic planning document. In turn, the 2021 Concept, unlike the federal target program, can be attributed to a sector policy document.

Conclusion

The stated above allows the authors to make a conclusion that the planning documents put into effect in recent decades, reflecting the leading ideas to develop the penal system and the chosen direction to execute criminal penalties predetermined the vector of its improvement. In addition, the studied method of understanding had a significant positive impact on the functioning of penal institutions and bodies, as well as law enforcement practice in the field of execution of criminal penalties.

Having analyzed results of the study and problems identified during implementation of the conceptual provisions, and having considered scientists and practitioners' points of view, we would recommend to the developers of a new legal document focused on developing the entire system of penal institutions and bodies to proceed from the following (doctrinal and practical proposals):

1. A new conceptual document should not be reduced solely to the penal system development, but should be aimed at regulating transformations in the entire set of institutions and bodies executing criminal penalties. Such a legal document may bear the working title "Conceptual foundations for the development of institutions and bodies executing criminal penalties in the Russian Federation for the period of 2031–2040".

2. It should be approved by the President of the Russian Federation, thus acquiring a higher position in the hierarchy of legal acts. The necessary quality level of fixing provisions in its content and their implementation in practice will be ensured.

3. The final results defined in the planning document and the range of tasks set for their achievement should correspond to reality, be

provided with sufficient funds, material and technical resources, as well as organizational and staff activities.

4. A newly introduced planning document should be of an interdepartmental nature, public bodies of various branches of government should engage in activities to execute criminal penalties. In this connection, it is important to involve specialists of various levels of government, including agencies implementing law enforcement functions, educational and research institutions, as well as practitioners from post-Soviet countries with experience in creating joint type institutions and implementing probation services, in preparing the text of the document.

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INFORMATION ABOUT THE AUTHORS

OLEG N. DYAD'KIN – Candidate of Sciences (Law), Associate Professor, Head of the Department of Criminal Law Disciplines of the Vladimir State University Named After Alexander and Nikolay Stoletovs, Vladimir, Russia, krimvggu@mail.ru, https://orcid.org/0000-0003-1887-2977

ANDREI V. KALYASHIN – Candidate of Sciences (Law), Associate Professor, associate professor at the Department of Constitutional and Municipal Law of the Vladimir Branch of the Russian Presidential Academy of National Economy and Public Administration, Vladimir, Russia, cav71@list.ru, https://orcid.org/0000-0002-9699-020X

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Emotional States of Convicts: a Model of a Psychological Correction Program

NIGAR N. ALIGAEVA
Kaluga State University named after K.E. Tsiolkovski, Kaluga, Russia
Correctional Facility No. 2 of the Federal Penitentiary Service of Russia in the Ryazan Oblast, Ryazan, Russia
nigar-0520@mail.ru, https://orcid.org/0000-0002-1239-1892

Abstract

Introduction: the article presents results of testing the program for psychological correction of convicts' emotional states, aimed at gradual elaboration of conditions arising at all stages of the life path. The 5-month program involved 167 people serving sentences of imprisonment in subordinate organizations and institutions of the Federal Penitentiary Service of Russia in the Ryazan Oblast. *Methods*: at different stages of the program implementation, the following methods were used: scales of positive affect and negative affect (as adapted by E.N. Osin), Spielberger-Hanin anxiety test, K. Izard's differential emotions scale, Y.M. Orlov's questionnaire of the need for communication and the need for achievement, Rosenzweig frustration test, and Zimbardo time perspective inventory. *Results*: as a result of the program, the indicators of situational anxiety decreased compared to the primary results, the emotional states of failure to achieve the goal did not undergo any special changes, however, the indicators of extra-punitive and ego-defense responses went up, the need for communication and the positive emotions index increased, the indices of negative and anxious and depressive emotions declined, which indicates success of the measures implemented. *Conclusions*: conducting classes with convicts in the context of time periods allowed us to fully consider conditions of convicts, affecting their past experience and future plans and influencing their current state, which contributed to optimizing the emotional state and reducing manifestations of destructive behavior during the process of serving a sentence.

Keywords: emotional states; emotions; psychological correction; places of imprisonment; convicts; perception of psychological time; time intervals.

5.3.9. Legal psychology and security psychology.

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Introduction

Emotional states play an important role in the life of a person serving a sentence in prison. According to A.A. Rean's definition, emotional states are "relatively stable experiences of a person's attitude to the surrounding reality and to him/herself at a certain point in time, relatively typical for a given person" [14]. Being "indicators" of existing problems, they help regulate convicts' behavior.

People's ideas about themselves and their life paths are based on their past experience, which allows them to independently create a narrative about significant events anchored by emotional states [8]. M. Becker and his colleagues believe that the perception of the "narrative" of life and its associative links with the past allows us to predict the degree to which a person can feel self-sufficiency and is able to set clear goals and plans for the future [18]. Autobiographical memories of one's own life also retain substitute memories of events that happened to other people, but are perceived as a valuable part of one's own history, which influence the formation of "emotional experience" [24].

In literary sources there are various terms denoting the category of "perception of time": temporal trans-perspective (V.I. Kovalev), temporal orientation (F. Zimbardo), subjective picture of the life path (B.G. Ana'ev, A.A. Kronik, E.I. Golovakha), temporal outlook (P. Fraisse), etc. In this study we use the concept of psychological time, reflecting the system of a person's temporal relations between events occurring in his/her life, in combination with the concept of temporal perspective, which is a set of human ideas about the past, present and future. The terms used are synonymous and show the significance of events in defining ideas about the psychological past, present and future.

Modern researchers believe that a person's ideas about the past are the result of subjective emotional and cognitive processing, in particular, there is a connection "between the strategies of emotion regulation "rumination" and "catastrophization" and negative ideas about the past" [13]. The nature of event actualization can be influenced by the currently dominant emotional state [16]. In the theories of cognitive estimates, assessment processes are considered as primary, causal factors that affect emotional states. In this process, a significant role is played by past experience and a person's ideas about the future.

The problem of emotional and cognitive processes interaction and the impact of emotions on time experience is indicated in several works [19; 20; 22]. Recent studies have revealed significant correlations between indicators of time perspective and indicators of emotion regulation [21].

Currently, the psycho-correction programs applied in relation to convicts are based mainly on provisions of the cognitive-behavioral approach and affect various spheres (cognitive, value-semantic, emotional), and also use various methods and techniques (art-therapeutic techniques, positive thinking techniques, cognitive psychotherapy). However, most researchers note that the formation of a holistic perception of the life path of persons serving sentences in places of deprivation of liberty contributes to the preparation for successful adaptation to life after release from correctional institutions (N.A. Konovalova [7], O.B. Schreder [17], A.B. Abibulaeva, L.V. Mardakhaev, A.K. Kuatov [1]). Therefore, we made an attempt to work out a program for correcting emotional states with regard to the specifics of the psychological time perception. To implement this task, we applied an integrative approach (the subjective approach to group work by I.V. Vachkova and S.D. Deryabo), key provisions of E. Bern's transactional analysis (structural analysis of personality, analysis of transactions), an experimental-phenomenological approach of gestalt therapy by F. Perls, provisions of the

behavioral game psychotherapy based on theories of B.F. Skinner (theory of social learning) and A. Bandura (theory of socio-cognitive learning), B.F. Skinner's ideas about the personality of a person as a sum of patterns of behavior (each individual reaction is based on previous experience and genetic characteristics), an acmeological variant of therapy with creative self-expression by M.Ye. Burno. When working with each time interval, depending on the lesson purpose, a certain approach was used, helping disclose current problems and ensure full functioning of the personality.

Yu.Yu. Neyaskina argues that under the influence of difficult life situations, in particular, serving sentences in places of deprivation of liberty, there are changes in the perception of time periods of life, including a lack of semantic fullness of each of them. The author believes that people's orientation to a certain life period (fixation on the moments of the past, hedonistic attitude to events of the present, unrealistic ideas about the future) can be considered as coping strategies to deal with harsh circumstances; still they often lead to difficulties in further adaptation, do not allow to take active (and adequate) steps to solve life problems [11].

S.V. Baburin and E.V. Zautorova conducted a survey among convicts of correctional institutions of the Federal Penitentiary Service of Russia in the Vologda Oblast, in which they revealed that convicts had negative ideas about themselves and their life at the present stage, as well as found it difficult to make plans for the future [4].

M.G. Flaherty notes that while serving their sentence in a correctional facility, convicts submit to a strict temporary regime, which leads to ignoring the distant future and perceiving time "as a painful burden". The strategy of resistance to this phenomenon is temporal compression, that is the perception that time (i.e. their term of service) will pass quickly [23]. E.V. Nekrasova also emphasizes changes in the perception of psychological time under the influence of spatial characteristics, noting that both "rapid" changes in the subjective perception and "qualitative" changes characterized by loss of a sense of reality are possible [10].

When studying the specifics of the psychological time perception by convicts serving long-term or life imprisonment, we revealed positive attitudes towards the past, its positive reconstruction, a low level of fatalism of the present, the focus on the future, its planning, idealization and detailing. The authors explain these features of perceiving the time perspective by the convicts' desire to cope with the "immobility" of time, scarcity of events, wish for parole to realize their plans (Yu.Yu. Neyaskina [11], Yu.V. Slavinskaya, B.G. Bovina [15]).

A.A. Martynova states that the profile of the time perspective of convicts does not depend on the term of punishment, but there is a trend to a predominant orientation towards the future, which allows setting goals that give meaning to the present and maintain contact with the real world [9]. A positive perception of the past and the future, orientation to the fatalistic present determine an unbalanced profile associated with the inability to change anything in the current life period, despite the resource-based past and future. However, according to E.A. Ippolitova, during the period of adaptation to a correctional facility, convicts have pronounced pessimistic thoughts about the past, present and, partly, the future; in the middle of the sentence, nostalgia for the past and relative acceptance of the present appear; before release, the past and present are largely rejected, anxiety about the future arises [6]. These differences in the results obtained indicate that when analyzing characteristics of the psychological time perception, it is also necessary to take into account additional factors that can have a significant impact on the studied indicators. For example, E. Piotrow and R. Kadzikowska-Wrzosek argue that low scores on the "self-control" scale among convicts lead to the dominance of the "fatalistic present" orientation, which, in turn, negatively affects self-determination [25].

The Polish researchers developed the "Prison Time" methodology aimed at studying perceptual-formal measurements of time (pace, dynamics, variability) and emotional-valence measurements (emotional attitude to the experience of time at the time of serving a sentence) [26]. The study showed that

convicted men perceived the relationship between periods differently, adopted a time orientation, different from that observed in the general population, but the frequency of thinking about specific categories of time was similar [27].

Difficult life circumstances lead to rethinking of time periods of the past, present and future, highlighting significant moments in them, changing one's own attitude to them and affecting the value sphere of a person [2]. Serving a sentence in places of deprivation of liberty, being a rather difficult situation, contributes to the division of life into stages before crime commission and after release. The sentence period is a prerequisite for this rethinking. That is why the model of the developed psycho-correction program involves working with emotional states in the context of the time perspective concept, consistently considering a person's past experience, plans for the future and the current state, which will allow the convict to adapt favorably to the period of serving his/her sentence.

Methods

The developed psycho-correction program was tested on 167 male convicts serving a sentence of imprisonment in subordinate organizations and institutions of the Federal Penitentiary Service of Russia in the Ryazan Oblast. Sixty-two convicts were included in the experimental group, one hundred and five – in the control group.

The samples mainly have the following parameters: average level of education, unmarried, who have committed a particularly serious crime, openly cooperating with the administration of a correctional institution.

It took 5 months to implement the program. Express diagnostics with the participants involved the use of the positive and negative affect scale (as adapted by E.N. Osin [12]) and was carried out every two weeks to identify the dynamics of changes.

The time periods of the past, present and future were correlated with the emotional states highlighted by E.P. Il'in:

1) "Past" – emotional states of the forecast/expectations;

2) "Future" – emotional states associated with the failure to achieve the goal;

3) "Present" – communicative emotional states [5].

The first month of research, the main purpose of which was to work out convicts' expectations and forecasts regarding future events and actions based on their own past experience, is called the block "Past" (Table 1).

Table 1

Key activities of the block "Past"

No.	Action plan	Homework assignments
1	Acquaintance. Regression method. Exercises "Our expectations", "Carousel of communication", "Journey into the past".	Answer the questions.
2	Watching the movie "Groundhog Day", discussing significant moments	Make a list of personal fears, worries and feeling based on past experience.
3	Method of sharing experience. Exercises "Self-portrait", "Screen test", parable.	Measure "Evening review of events".
4	Simulation method. Parable. Meditation "The sage from the temple".	Technique "To cut off, discard".

The second month of work was devoted to identifying convicts' life goals and teaching goal-setting (Table 2).

Table 2

Key activities of the block "Future"

No.	Action plan	Homework assignments
1	Method of symbolic self-expression. Exercises "Mobilizing breathing", "Concentration on counting", "Group story", meditation-visualization "Mountain top"	To make a list of life goals and desires.
2	Method of group problem solving. Exercise "Catastrophe in the desert".	To perform the test of M. Rokich's value orientations.
3	Method of group problem solving. Exercises "Quality", "Thrift store", "Suitcase", SMART goal setting technique	To write 10-15 life goals using the SMART technique.
4	Operationalization method. Lecture "Goal setting techniques". Analysis of specific goals of convicts, taking into account possible frustrating situations	To send a letter to yourself in the future.

The rest 3 months were aimed at working with 3 vectors of communication: "convict-convict", "convict-employee", "convict-relative, acquaintance", because the convicts' present involves communication with other people in the process of everyday interaction in a correctional facility (Table 3).

Table 3

Key activities of the block "Present"

№	Convict – convict	Convict – employee	Convict – relative, acquaintance
1	"Three names", "Emphasizing community", "Emphasizing significance".	"Verbal and nonverbal manifestations". Exercise "I am an adult". Mini-lecture "Typical patterns of interaction", "Lighthouse".	"Conflict". Technique "Changing what you don't like" (T. Krupskaya) using metaphorical associative cards "Dixit".
2	"I am so afraid, and many are not afraid of it", "I am not afraid, but many are afraid", "How have you learned not to be afraid of it?"	"Without a mask". "Criticism", statement of criticism. Mini-lecture "Model of constructive criticism" "Constructive criticism".	"Spilling out aggressiveness". «Listening techniques".
3	"Feeling", "Technique of polite refusal".	Group discussion "Is it possible to live without established rules?". Exercises "Uncertain, confident and aggressive answers", "Yes". Role-playing game.	"Past, present and future". "Carousel".
4	"Detectives", Drawing on the topic "Dialogue"	"Concentration on a neutral subject", "Concentration on emotions and mood". Role-playing game.	Drawing in a circle "Mandalas". Exercise "Wish in a circle".

At the end of the experiment, the in-depth diagnostics was carried out using the following methods: Spielberger-Hanin anxiety test, K. Izard's differential emotions scale, Y.M. Orlov's questionnaire of the need for communication and the need for achievement, Rosenzweig frustration test, and Zimbardo time perspective inventory.

Quantitative processing of psycho-diagnostic data was conducted in the program Psychometric Expert 9.1.0. Qualitative processing is represented by the analysis and description of the results obtained.

Statistical processing was performed in the IBM SPSS Statistics 22 program and was carried out in several stages. The Wilcoxon T-test was used to assess differences in the severity of signs measured before and after the psycho-correction program. The Mann-Whitney U-test was applied to assess differences in the level of severity of the studied signs in the experimental and control groups. The Friedman test helped identify dynamics of changes in the experimental group during the program realization.

Results

The author's early works reflected results of testing the psycho-correction program on a sample of disabled convicts serving sentences in the Correctional Facility No. 2 of the Federal Penitentiary Service of Russia in the Ryazan Oblast (the male correctional facility of strict regime). The program activities, conducted in a group format with convicts with disabilities, showed their effectiveness, but the dynamics of changes for each was individual [3].

Let us consider results of testing the psycho-correction program on a sample of convicts who do not have any disabilities. The analysis of the methods used at the end of the experiment indicates a decline in the indicators of situational anxiety and the index of negative and anxiety-depressive emotions, as well as a rise in the group conformity rating (GCR) and the positive emotions index (Figure 1). Statistically significant differences are observed in indicators of the scales "need for communication" ($T=28.38$, $p<0.01$) and "negative emotions index" ($T=25.63$, $p<0.01$), as well as extra-punitive ($T=18.41$, $p<0.01$) and intra-punitive ($T=24.53$, $p<0.01$) responses and ego-defense ($T=20.13$, $p<0.01$) and continued need ($T=24.44$, $p<0.01$) types of reactions.

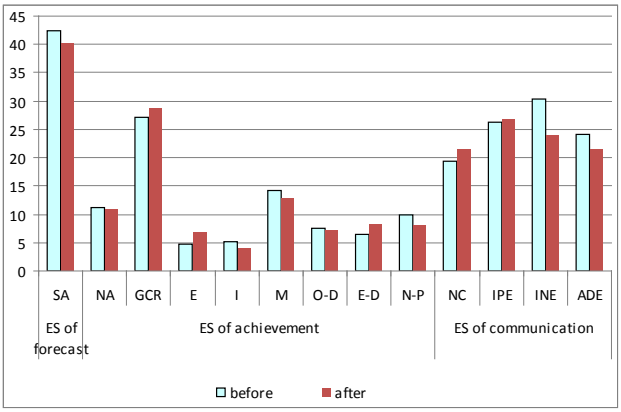

Figure 1. Comparison of average indicators of emotional states before and after the psycho-correction program

**Note.* ES – emotional state; SA – situational anxiety; NA – need for achievement; GCR – group conformity rating; E – extra-punitive response; I – intra-punitive response; M – non-punitive response; O-D – obstacle dominance; E-D – ego-defense; N-P – continued need; NC – need for communication; IPE – index of positive emotions; INE – index of negative emotions; ADE – anxious and depressive emotions.

Situational anxiety of the convicts was mainly associated with forecasting their future after release from the correctional facility. Most of them had a negative experience of employment, family life, building relationships with other people, which complicated the process of re-socialization and contributed to the repeated violation of law and order. This experience contributed to a negative forecast of possible events, which was one of the reasons for the depressed state. In the first month of the program, psychological activities were aimed at studying events of the past and possible ways to resolve similar problems if they arise in the future. The convicts noticed that their life stories and difficulties are not unique: other persons who participated in the program also had similar problems. The opportunity to share a story created a favorable atmosphere in the group, which helped to reduce anxiety and increase a degree of the group conformity.

According to the results of the psycho-correction program, the indicators of the need for communication went up, but no purposeful work was done for this. The main format of psychological activities was group classes, which allowed convicts to discuss issues that were important to them together. An active discussion and group assignments revealed common topics for conversations to be continued in everyday life in the correctional facility. Increased interest in group activities contributed to a rise in the positive emotions index and a decline in the indices of negative and anxiety-depressive emotions.

The work conducted helped identify statistically significant differences only in indicators of the scales of obstacle dominance "O-D" ($U=2658,0$, $p<0.05$) and ego-defense "E-D" ($U=2640,5$, $p<0.05$) types of reactions.

Comparison of average indicators revealed an increase in indicators of the scales "index of positive emotions" and "group conformity rating" (Figure 2) in the experimental group of convicts.

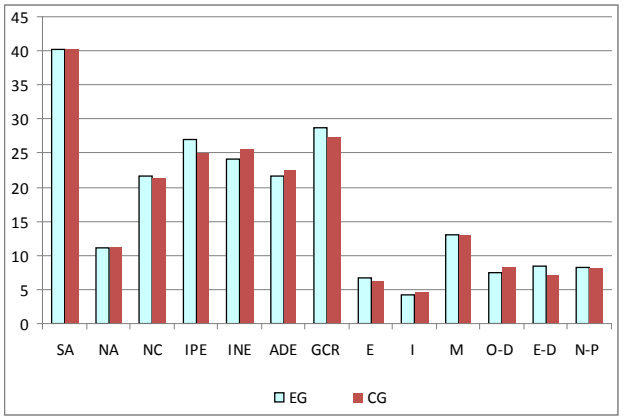

Figure 2. Comparison of average indicators of emotional states in the experimental (EG) and control groups (CG)

**Note.* SA – situational anxiety; NA – need for achievement; NC – need for communication; IPE – index of positive emotions; INE – index of negative emotions; ADE – anxious and depressive emotions; GCR – group conformity rating; E – extra-punitive response; I – intra-punitive response; M – non-punitive response; O-D – obstacle dominance; E-D – ego-defense; N-P – continued need.

When studying the dynamics of changes in emotional states, patterns were revealed at a high level of statistical significance between indicators of positive ($\chi^2=461,1$, $p<0.001$) and negative ($\chi^2=90,1$, $p<0.001$) affect.

Figure 3 shows the dynamics of changes in positive and negative affect, which were measured once every two weeks. By 3–5 measurements, we can observe a sharp jump in affect, which we associate with the transition to the block "Future", which is one of the most difficult and uncertain for convicts. Most convicts serving sentences in places of deprivation of liberty are repeat offenders

and, after release, experience difficulties in adapting to life outside the correctional institution, which leads to re-commission of crime. Difficulties in planning the future are associated with unreality of visible prospects and discrepancy between available adequate human capabilities.

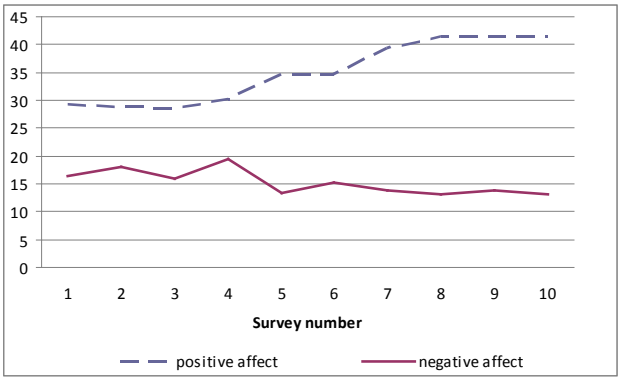

Figure 3. Dynamics of changes in positive and negative affect

The cluster analysis made it possible to divide the experimental group into two clusters, differing in the dynamics of changes in emotional state throughout the entire period of the program: Cluster 1 comprised 46 people, Cluster 2 – 16 (Figure 4). It can be noted that the second cluster participants are characterized by smooth dynamics of changes in positive affect. The first cluster convicts have a sharp jump on the 5th measurement associated with the transition to the block "Present", aimed at working with current conditions during the period of serving sentences in places of deprivation of liberty.

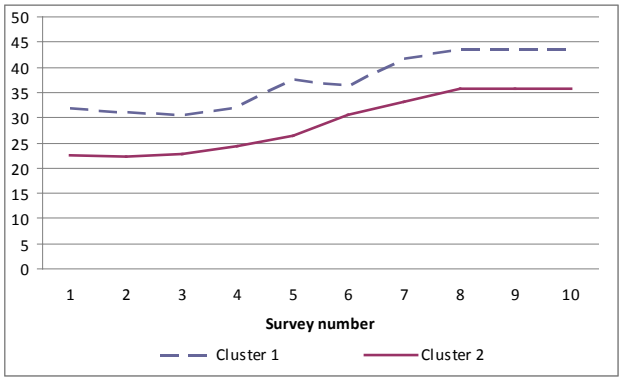

Figure 4. Dynamics of changes in positive affect in clusters 1 and 2

Cluster 2 is characterized by a gradual decrease in negative affect by the middle of the program and jumps on the 7th and 9th measurements due to conducted classes focused on communication of convicts with employees and relatives (Figure 5).

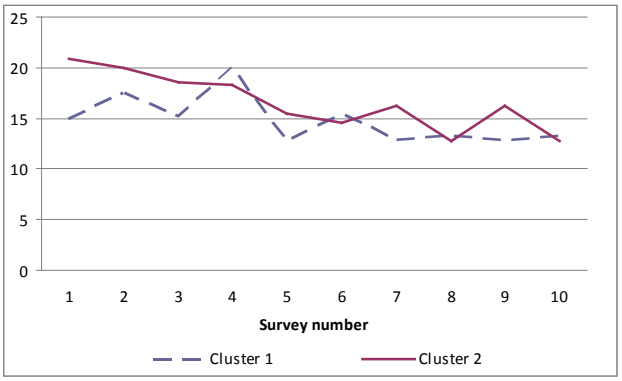

Figure 5. Dynamics of changes in negative affect in clusters 1 and 2

In Cluster 1 the jumps reflect the end of blocks "Past" and "Future". The convicts of this cluster noted that a one-month period to study past experience and future plans was not enough for them, and the completion of one stage led to regret. The block "Present" did not affect their emotional states so much, because in the current period their life was not saturated with certain events, only interaction and communication at the "convict-convict" level caused vivid discussions, since it was this vector of relations that was full of various conflict situations requiring discussion.

As a result of the psycho-correction program, the convicts' attitude to their own goals and plans for the future, as well as perception of events of the present period, changed, there was a desire to achieve satisfactory relationships with other people in order to maintain an optimal emotional state during the period of serving a sentence in the correctional institution. Statistically significant differences were achieved in indicators of the scales "positive past" ($T=26,0$, $p<0.001$), "hedonistic present" ($T=10.5$, $p<0.001$), "fatalistic present" ($T=30.18$, $p<0.001$), "future" ($T=13.5$, $p<0.001$) (Figure 6).

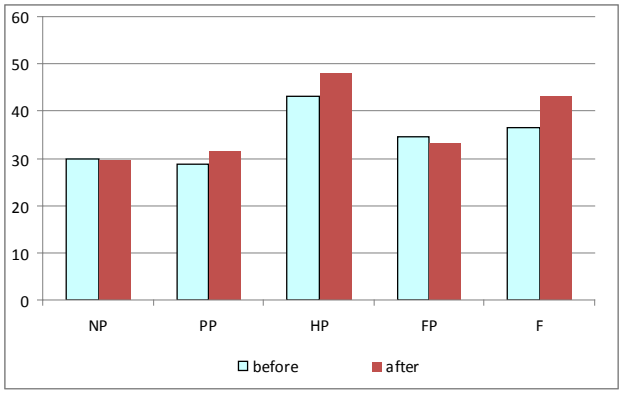

Figure 6. Comparison of average indicators according to the time perspective questionnaire

**Note:* NP – negative past, PP – positive past, HN – hedonistic present, FP – fatalistic present, F – future

Discussion

In conditions of restricted freedom ("spatial restriction") the perception of time changes, which can also influence convicts' emotional state. The psychocorrection program, aimed at working with emotional states at each time stage, allows convicts to perceive life not as segments "before" and "after" serving a sentence, but as a single whole, cycle of interrelated events. Optimization of the emotional state according to the perception of the past, present and future leads to a favorable forecast of the process of adapting to difficult life circumstances.

The degree of connection between the categories of time demonstrates how much previous experience affects the present, and it, in turn, affects the future. The data obtained indicate convicts' orientation to the past, expressed by certain emotional states affecting the subjective perception of the remaining time periods. Purposeful work with each life stage helps reduce manifestation of negative and anxious and depressive emotions.

However, when assessing convicts' emotional states, the socio-psychological situation (SPS) is one of the significant factors requiring research, because convicts arrive in a closed space and their condition is subject to "infection" of the general mood of surrounding people.

The sample included 2,092 convicts, which is 72.3% of the total number of persons serving sentences in subordinate organizations and institutions of the Federal Penitentiary Service of Russia in the Ryazan Oblast. Aged 21–75, convicts have different marital status and educational level (Table 4).

Table 4

Socio-psychological situation in the current period

Indicators		2 quarter of 2021
Block No. 1 Conditions of serving a sentence	average value	78%
	interpretation	satisfactory
Block No. 2 Operational situation in the correctional facility	average value	72%
	interpretation	satisfactory.
Block No. 3 Relationships in "the employee-convict" system	average value	74%
	interpretation	satisfactory.
Block No. 4 Relationships in the "convict-convict" system	average value	67%
	interpretation	unstable
Block No. 5 Convicts' state	average value	78%
	interpretation	satisfactory.
Block No. 6 System of attitudes and motivation of convicts	average value	79%
	interpretation	satisfactory.
Assessment of the socio-psychological situation	number of unsatisfactory ratings by blocks	0
	number of unstable ratings by blocks	1
	number of satisfactory ratings by blocks	5

Having studied the socio-psychological situation in institutions, we identified changes in the convicts' general mood associated with the epidemiological situation and changes in leadership. To a certain extent, it had an impact on indicators of the convicts in the control group. However, despite the circumstances, indicators of the convicts who participated in the program are quite positive.

Conclusions

The psycho-correction program based on comparison of emotional states with the temporary perspective concept has shown its effectiveness in a sample of convicts: indicators of situational anxiety declined compared to the primary results, emotional states of achieving (not achieving) goals did not undergo any special changes, however, indicators of extra-punitive and ego-defense responses rose, the need for communication increased,

the index of positive emotions and the indices of negative and anxiety-depressive emotions decreased.

To develop this scientific direction, it is possible to expand the developed research model by considering a larger number of components in the structure of emotional states; adapt program classes for conducting trainings in an individual form as part of psychological measures implementation according to the individual program of psychological support of convicts who are on various types of preventive care, as well as activities with released convicts in the pre-release school.

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INFORMATION ABOUT THE AUTHOR

NIGAR N. ALIGAEVA – Postgraduate student of the Institute of Psychology of the Kaluga State University named after K.E. Tsiolkovski, Kaluga, Russia; psychologist of the Psychological Laboratory at the Correctional Facility No. 2 of the Federal Penitentiary Service of Russia in the Ryazan Oblast, Ryazan, Russia, nigar-0520@mail.ru, https://orcid.org/0000-0002-1239-1892 .

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Features of Meaningfulness of Life of Convicts Serving Long-Term Sentences

EL'VIRA V. ZAUTOROVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654

NIKOLAI G. SOBOLEV
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia,
sobolev-nikolay@mail.ru, https://orcid.org/0000-0001-6101-7437

Abstract

Introduction: the article describes features of meaningfulness of life of convicts serving long-term sentences in places of deprivation of liberty. An attitude to life should be considered as a universal subjective formation that ensures self-organization of human activity in the process of their life. *Purpose*: to determine features of meaningfulness of life of convicts serving long-term sentences, give recommendations on correctional and educational work with this category of offenders. *Methods*: theoretical analysis of literature; methods of synthesis and generalization; life orientations test by D.A. Leont'ev. *Results*: convicts who have been in social isolation for more than 10 years demonstrate a lower interest in life and less emotional intensity and lack life aspirations and goals; the time perspective is not indicated. They perceive life as uninteresting and insufficiently filled with meaning. At the same time, the time passed is not fully comprehended, they cannot realize themselves, they are dissatisfied with their life and do not feel that they can manage it. The revealed features of meaningfulness of life of convicts serving long-term sentences supplement characteristics of persons in this category and this should be taken into account when organizing correctional and educational work with them in places of deprivation of liberty. *Conclusions*: when determining the direction of correctional and educational work with convicts of this category, it is important to take into account the specifics of their attitude to life and direct them to correction, preventing aggression in their behavior. At the same time, it is important for convicts to realize their guilt, focus on their own spiritual and moral problems, and develop a desire to compensate for the harm they have caused. To do this, it is necessary to establish cooperation with convicts based on the in-depth study of life, personality and needs.

Keywords: places of deprivation of liberty; correctional process; convicts; long-term sentences; sense of purpose; correctional and educational work.

5.8.1. General pedagogy, history of pedagogy and education.

5.3.9. Legal psychology and security psychology.

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Introduction

The Concept for the development of the penal system up to 2030 is aimed at further improvement of correctional and educational work with convicts. It should be differentiated with regard to characteristics of different categories of persons serving sentences and types of penitentiary institutions. There is a need to search for effective means, forms and methods of correctional and educational influence, new approaches to the use of existing capacities, capabilities and forces, attracting various services and departments (pedagogical, psychological, medical, social, etc.) of a correctional institution.

As of December 1, 2021, 469,283 people were held in penal institutions, including 357,649 people – in 647 correctional facilities, 1,947 people – in 6 correctional colonies for those sentenced to life imprisonment and persons for whom the death penalty was replaced by imprisonment by way of pardon freedom, 1,345 people – in 8 prisons [8]. Persons serving long-term sentences and those serving sentences in strict and special regimes for committing grave and especially grave crimes require special attention. It is worth mentioning that criminals are aggressive, violent, and cynic towards citizens, their actions are cruel [12].

Long social isolation can lead to disruption of socially useful connections, loss of socially useful skills, etc., which in the future may complicate the process of resocialization of the convict's personality. Correctional facility employees face important tasks to ensure their correction in order to return to society after their release, as well as to prevent destructive forms of behavior of those deprived of liberty while serving their sentence.

Convicts' attitude to life can act as a kind of indicator of the meaningfulness of the life lived and the desire to improve its quality through self-acceptance and acceptance of responsibility for the changes taking place. Different views on life and its values determine convicts' behavioral patterns in correctional facilities and the degree of their readiness for release.

Works of S.A. Abdulgalimova, I.S. Artyukhova, M.I. Bobneva, A.G. Zdravomyslov, I.S. Ilyina, I.S. Kon, A.V. Mudrik and many other researchers are devoted to the study of value orientations of personality. Still the system of life-meaning orientations and ideas about life in terms of the content of existential representations of persons deprived of liberty is neglected. The attitude to life is considered by scientists as an attitude to the life activity that influences people's behavior in all spheres of their activity, is expressed in acceptance (non-acceptance) of life and responsibility for oneself and one's life and striving (lack of striving) for personal growth and is determined by the value world of the individual [1]. At the same time, this subjective category includes an attitude to the present, past, and future, is formed under the influence of death perception, and includes the meaning of life as an obligatory component [4].

The attitude to life in psychology was considered in many aspects. Thus, in foreign psychology, A. Adler drew attention to the relationship between behavior and life meaning of a person, presenting a sufficiently detailed understanding of behavioral meanings of life, which he associated with a lifestyle, life plan [3]. C.G. Jung considered orientation of a human personality to search for life meaning as a separate task. A person faces the task of discovering life meaning, thanks to this he/she can live, since the meaning of life is interconnected in case of spiritual and cultural goals presence. In their pursuit a person goes beyond the ordinary. According to the researcher, finding the meaning of life is a specific need and task; "archetypes" and symbols are the sources (forms) of meaning [15].

According to V. Frankl, the meaning of life is the pursuit of universal values, and the search for the meaning of life is inherent in a person in the form of a tendency. Experiencing the meaning of life is the highest value of the relationship; the individual's responsibility for his/her own life is an important question [14].

The desire to preserve life is innate, a person is vitally oriented and chooses life by virtue of the fact of his/her existence as opposed to death, adhering to one or another life con-

cept. Hence, life is of the highest value status. Defining human nature as a set of five basic needs (need for life, social security, community or belonging, esteem, self-actualization), A. Maslow notes that the need for life is initial [10].

In Russian psychological science, this problem was studied within the activity approach. S.L. Rubinstein identifies two main ways of human existence and defines two attitudes to life. The first one presents a certain attitude to individual phenomena, but not to life as a whole, the second – reflection and philosophical understanding of life. Semantic analysis of human behavior is interpreted as a way of a person's spiritual life and attitude to everything that surrounds a person. Forming a general and generalized attitude to life reflects the connection of past, present and future events of his/her life. This attitude makes it possible to realize the meaning of life and improve it [13].

K.A. Abul'khanova-Slavskaya emphasizes the importance of a person's single life line in understanding the attitude to life: the whole life dynamics ceases to be randomly alternating events, but depends on the activity of the individual, his/her ability to direct life events [2]. V.N. Myasishchev discusses a person's attitude to life activity, considering person's attitudes as the most important category associated with the development and formation of a personality. The attitude to life activity is a complex structural formation that contains an attitude to oneself, activity and other people [11]. According to V.A. Zobkov, people's attitude to their life and themselves contribute to the emergence and development of meaningful characteristics [7].

Thus, the attitude to life should be considered as a universal subjective formation that ensures self-organization of human activity in the process of their life. In order to specify the attitude to life of convicts with different terms of imprisonment, we conducted an empirical study in several stages. At the first stage convicts' personal files were studied to identify subjects and create experimental (EG) and control (CG) groups. The purpose of the second stage was to determine features of life meaningfulness of convicts serving long-term sentences (EG – 30 men aged 34–50, socially isolated for more than 10 years). At the third stage, the second stage results were compared with those of the group of convicts serving short sentences (CG – 30 men aged 34–50 years, socially isolated for up to 5 years), and recommendations were proposed. We constructed the following hypothesis: a long term of serving a sentence leads to significant personal changes of a negative orientation, in connection with which the attitude to life of convicts serving long-term sentences is characterized by a less pronounced acceptance and a more vivid rejection than those of convicts with short terms of serving a sentence.

The empirical study was conducted in the correctional facility No. 17 of the Federal Penitentiary Service of Russia in the Vologda Oblast (November–December, 2021). This is a strict regime correctional facility for male (capacity limit: 1,565 people [8]).

Test of life-meaning orientations (the LMO method) by D.A. Leont'ev was used to determine subject's life-meaning orientations. It attracted our attention because it allows us to assess the "source" of the meaning of life, which can be found by a person either in the future (goals), or in the present (process) or the past (result), or in all three components of life. This method is an adapted version of the Purpose-in-Life test (PIL) by J. Crumbaugh and L. Maholick [9].

The test contains both a general indicator of life meaningfulness, and five subscales indicating three specific life orientations (goals in life, life intensity and satisfaction with self-realization), as well as two aspects of the locus of control (Me and Life). Based on the factor analysis of the version of this method adapted by D.A. Leont'ev, domestic researchers (D.A. Leont'ev, M.O. Kalashnikov, O.E. Kalashnikova) worked out the LMO method, which includes 20 pairs of opposite statements reflecting the idea of life meaningfulness factors.

The analysis of data obtained with the help of the life-meaning orientations test (the LMO method) by D. A. Leont'ev showed the following results.

The experimental group (convicts are socially isolated for more than 10 years) is characteristic of low rates of meaningfulness of life on the scales, such as goals in life, a process, and a locus of control "Life", average rates on the scales, such as a locus of control "Me" and a general indicator of meaningfulness of life (ML). In the group of people sentenced to short-term imprisonment, average rates of meaningfulness of life are observed on the scales, such as a result, a locus of control "Life", as well as low rates on the scales, such as goals in life, a process, a locus of control "Me", and an indicator of meaningfulness of life (ML).

Comparative indicators of life meaningfulness of convicts in the EG (group 1) and CG (group 2) are shown in Figure.

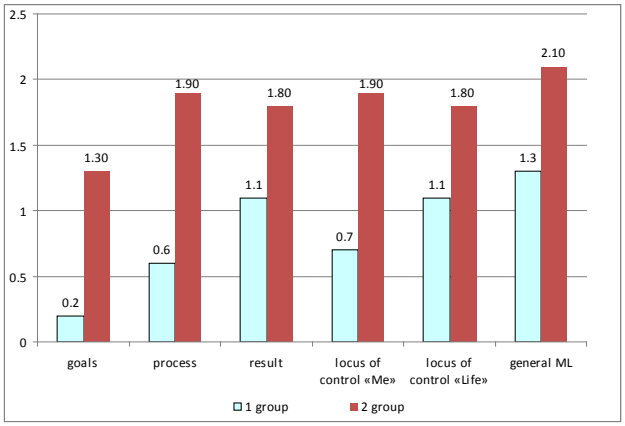

Figure. Comparative indicators of meaningfulness of life of convicts in the EG (group 1) and CG (group 2)

Convicts serving long-term sentences in places of deprivation of liberty have lower rates of a general level of meaningfulness of life (1.3), its purpose (0.2), a life process itself (0.6) and its effectiveness (1.1), as well as a locus of control "Me" (0.7), and a locus of control "Life" (1.1), than those of the control group convicts.

Convicts in the EG demonstrate a lower interest in life, lower emotional intensity, do not set life goals and objectives of the future; the time perspective is not indicated. They perceive life as insufficiently interesting, and unfilled with meaning. At the same time, the period of life already lived by the subjects is not fully understood, they are dissatisfied with the life they have lived and do not think they can manage their life.

The convicts of the control group are characterized by higher rates of general levels of meaningfulness of life (2.1), its purpose (1.3), a life process itself (1.9) and its effectiveness (1.8), as well as a locus of control "Me" (1.9), and a locus of control "Life" (1.8). The convicts in this group show an interest in life, a certain emotional intensity of life, they have certain life goals and objectives of the future, time limits are determined. They feel the strength and capabilities to manage their own lives.

Results

Thus, we confirmed a hypothesis that the attitude to life of convicts serving long-term sentences is characterized by a less pronounced acceptance and a more vivid rejection than that of convicts serving short-term sentences. In this regard, penitentiary psychologists and squad leaders need to organize special work to correct convicts' behavior, especially those who are serving long-term imprisonment, which will contribute to more harmonious relations in the convicts' environment, reduce stress and conflict, etc. in order to solve the main task – to correct the personality of an offender.

At the same time, there is some experience in practical work with this category of convicts: individual conversations are held, social ties are maintained and developed, the positive impact of convicts on each other is used, relatives, the public, representatives of religious denominations, etc. are involved [16]. In order to optimize the socio-psychological situation in the squad of convicts with long-term sentences, it is necessary to organize special work to correct the personality of a convict, take measures to change their attitude to life [19, pp. 48–54]. At the same time, it is important to develop measures to prevent and regulate destructive trends, as well as to conduct work on correcting relationships in groups of convicts.

Personnel of the educational department of a correctional facility should provide timely socio-psychological support to people who find themselves in a difficult life situation, while contributing to the creation of conditions that provide opportunities for implementing useful initiatives, developing person-

al potential, psychological competence and skills of adaptive behavior of the convicted with rational use of their free time. It is crucial to promote optimization of self-esteem, stabilization of the emotional and psychosocial state of the educated, reduction in conflict, alienation and overcoming barriers in communication by conducting group and individual psychological prophylactic and psychological corrective measures [5]. Formation of "healthy" lifestyle models, socially useful initiatives, work skills and law-abiding behavior in convicts will promote more successful social rehabilitation and adaptation after release from places of isolation from society.

At the same time, an important area of work is to realize social measures for convicts with long-term sentences [6], and organize permanent monitoring for identifying barriers to adequate life activities of persons of this category.

Conclusion

This study describes features of meaningfulness of life of convicts serving long-term sentences. The subjective category, such as an attitude to life, includes a person's attitude to the past, present and future, is an obligatory component of the meaning of life. Experiencing the meaning of life is the highest value of the relationship and the indicator of persons' responsibility for their own life [18].

The following features of meaningfulness of life were identified in persons who have been in conditions of social isolation for more than 10 years: a low interest in life, its weak emotional intensity, insufficient number of life goals, lack of a goal for the future, temporary perspective, alienation from life, detachment in communication with the prison administration and other convicts. A lack of prospects associated with release, solitary confinement, various severe restrictions aimed at regulating the order of serving a sentence and excluding the possibility of building their relationships in society on the principles of cooperation, are the reason for this attitude to life [20]. Convicts serving long-term imprisonment often show a lack of desire and internal readiness for social rehabilitation. Such a way of thinking and inability to socialize can become key factors determining social danger of persons who have violated the law.

Correctional and pedagogical work should encourage convicts serving long-term sentences to change their personality, prevent violence and aggression against representatives of the administration, other convicts and themselves, realize their guilt and repent on this basis, focus on their own spiritual and moral problems, develop a desire to compensate for the harm caused by their crime [17].

The conducted research will contribute to the development of general recommendations on psychological correction of convicts' attitude to life and formation of their moral value orientations as preventive measures to combat suicide in correctional facilities and their readiness for social rehabilitation.

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INFORMATION ABOUT THE AUTHORS

EL'VIRA V. ZAUTOROVA – Doctor of Sciences (Pedagogy), Professor, Corresponding Member of the International Academy of Sciences of Pedagogical Education, professor at the Department for Legal Psychology and Pedagogy of the Psychology Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, Leading Researcher at the Research Institute of the Federal Penitentiary

Service of Russia, Moscow, Russia, elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654
NIKOLAI G. SOBOLEV – Candidate of Sciences (Psychology), Associate Professor, Senior Researcher at the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, sobolev-nikolay@mail.ru, https://orcid.org/0000-0001-6101-7437

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Key Forms of Scientific Penitentiary and Pedagogical Knowledge

OKSANA B. PANOVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, xenia-vipe@mail.ru, https://orcid.org/0000-0002-6096-2581

Abstract

Introduction: the article is devoted to substantiating the expediency of formalizing scientific penitentiary and pedagogical knowledge, taking into account the information accumulated in this field and penitentiary pedagogy tasks; presenting a scientific view on the systematization of key forms of penitentiary and pedagogical knowledge and considering their basic parameters. *Purpose*: to present and characterize modern penitentiary and pedagogical knowledge as a formalized structure based on certain standard approaches that are designed to provide clarity and uniformity in the perception of key aspects of penitentiary-pedagogical reality in the scientific community, among practitioners and public figures. *Methods*: comparative historical analysis, monographic, structural analysis, logical generalization, etc. *Results*: during theoretical analysis of the literature reflecting priority achievements of penitentiary pedagogy and the established approaches to structuring scientific information, key forms of scientific penitentiary and pedagogical knowledge in the aspect of modern trends in the development of the penal system were presented and characterized. Pedagogical terms, patterns, principles, conditions, models, concepts and theories were considered as the main forms. Characteristics of these forms included basic features, penitentiary specifics, criteria of effectiveness and prospects for further development. These forms were supported by examples that made it possible to concretize each of them. The prospects to further elaborate the problem of formalization of penitentiary and pedagogical knowledge are determined.

Keywords: scientific penitentiary and pedagogical knowledge; pedagogical terms; patterns; principles; conditions; models; concepts; theories.

13.00.01 – General pedagogy, history of pedagogy and education

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Introduction

Pedagogization of the correctional process in penitentiary institutions is a trend that is fixed in the content of the purpose for executing criminal punishment and confirmed in conceptual documents reflecting the current stage of the Russian penal policy development. Supplementing the goal of correcting convicts with such components, as "formation of a respectful attitude towards a person, society, work, norms, rules and traditions of human community" (Article 9 of the Penal Code of the Russian Federation), the legislator, thereby, consolidated a special role of the pedagogical component in its implementation, since respect for any object is primarily associated with the manifestation of moral duty and moral qualities, the development of which is most successfully achieved by means of education.

Many outstanding Russian scientists promoted penitentiary pedagogy, among them M.N. Gernet, who linked social causes of crime with shortcomings of upbringing and education [11, p. 44], N.F. Luchinskii, who developed the first in Russia concept for training domestic penitentiary personnel with an emphasis on the formation of pedagogical knowledge among prison officials [26, pp. 28–31], S.V. Poznyshev and I.Ya. Foinitskii, who included sections devoted to characteristics of prison upbringing, education and enlightenment of prisoners in the content of the previously existing branch of jurisprudence – prison studies [34, pp. 157–182; 47, pp. 373–387], A.S. Makarenko, who enriched pedagogical science with the team teaching doctrine [27, pp. 80–90], V.N. Soroka-Rosinskii, who justified a special role of creative and amateur activities in the re-education of juvenile offenders [40, pp. 164–229], etc.

The pedagogical heritage of Russian scientists has been confirmed and creatively developed in works of such outstanding researchers as I.P. Bashkatov, A.V. Budanov, V.F. Klyukin, V.M. Litvishkov, M.P. Sturova, N.A. Tyugaeva, and others. The information array created by them accumulates the content of pedagogical knowledge recorded in the study of the most significant fragments of penitentiary reality. It should be noted that there is no special task to create a holistic picture of the knowledge series in penitentiary pedagogy as a list of the main forms of knowledge accumulated in research and practice so far. Meanwhile, such forms form the foundation for a specific language of penitentiary-pedagogical science, which ensures systematic assimilation of scientific information, its clear interpretation and effective use. The relevance of identification and analytical description of the main forms of scientific knowledge is associated with the need to prevent certain simplicities in explaining the essence and features of pedagogical processes and phenomena in the penal environment; it is explained by the need to operate with certain standards and patterns designed to ensure mutual understanding between members of the penitentiary-pedagogical community, both scientists and practitioners.

Purpose of the study

The purpose of this article is to present and characterize modern penitentiary and pedagogical knowledge as a certain formalized structure. Structuring the basic forms of existing penitentiary and pedagogical knowledge is important in determining directions and ways of productive development of penitentiary science and practice; its importance increases due to the need to follow an interdisciplinary approach that focuses on the effective operational integration of penitentiary pedagogy with other branches of science, ensuring clarity and understanding in the perception of key aspects of penitentiary and pedagogical reality in the scientific community, among practitioners and public figures.

Methods

In order to achieve the stated goal, we used a number of theoretical methods, such as the comparative historical analysis method (to compare scientific interpretation of key penitentiary and pedagogical terms at different time periods of the penitentiary pedagogy development), the monographic method (to describe holistic, relatively independent pedagogical categories, phenomena and processes as separate objects of the study and analysis), the structural analysis method (to show relationships between studied units of scientific knowledge in a hierarchical order), logical generalization (to consider common features of objects with their transfer to particular char-

acteristics and study particular properties of objects with their extrapolation to general parameters), and the generalization method (to summarize certain results of the study), etc.

Analysis and discussion of the results

Penitentiary and pedagogical knowledge is one of the forms of fixing the results of cognitive activity of specialists — scientists and practitioners — in the field of specially organized and implemented by pedagogical means measures aimed at correcting criminals sentenced to various types of criminal penalties. The category of pedagogical means includes those that are used in the course of solving educational problems and, accordingly, are related to teaching and upbringing. Penitentiary and pedagogical knowledge will be considered as scientific, provided it meets certain requirements, namely: criteria of objectivity, certainty, evidence, methodology, consistency and usefulness in terms of changing the situation for the better [23, p. 3]. Scientific penitentiary and pedagogical knowledge can reflect both universal regular educational processes and phenomena inherent in all correctional institutions, as well as single pedagogically significant situations and events that are of an exceptional nature and have significance for a particular institution. Complexity and non-linearity of the correctional process determines the need for a wide variety of forms of expression of scientific penitentiary and pedagogical knowledge.

Sharing the views of N.G. Serikov, who included pedagogical terms, patterns, principles, conditions, models, concepts and theories in the main forms of scientific and pedagogical knowledge [38], we consider it possible to present a similar formalization of penitentiary and pedagogical knowledge. Let us characterize each of the listed forms.

The word "term" is of Latin origin and was originally used in the meanings of *"border", "limit", etc*. [42, p. 636]. In modern usage, it is considered as a set of the most general and essential features of a class of objects and phenomena that are recognized in science at a certain stage of its development. Scientific terms are characterized by the absence of synonyms, unambiguity of interpretation, correspondence to the same type of terms in related fields of knowledge [25]. Any word can be used as a term if it is used "in a special function, the function of naming a special concept, the name of a special object or phenomenon" [19, p. 307]. Any term has two sides, such as structural-linguistic and semantic, determined by the evolution and formation of a system of concepts of a particular science [9, p. 7].

Penitentiary and pedagogical terms should correspond to general pedagogical terminology, but, at the same time, have a specialized meaning mediated by penitentiary reality. In the terminological apparatus of penitentiary pedagogy, as in any branch of science, there are basic terms that, due to their a priori nature, are distinguished in a special way and called scientific categories. Since penitentiary pedagogy is one of the branches of pedagogy, its main categories include those that make up the categorical apparatus of general pedagogy, namely: education, upbringing, educational work, training; socialization, personality, society, culture; pedagogical process, pedagogical system, goals, content, methods, means, forms (of education); student, pupil, teacher, educator; development, formation (of a personality); interaction, communication (pedagogical), relationships, activities, etc. The categorical apparatus of pedagogy represents the primary basis for penitentiary pedagogy and conveys its characteristic features.

The terminological apparatus of penitentiary pedagogy includes concepts, such as "correction", "re-education", "re-socialization", "educational system of a correctional facility", "educational work with convicts", "correctional process", "means of correction", "correction criteria", etc. They help describe specific pedagogical methods of correcting convicts. We will take a closer look at the terms that, in our opinion, play a leading role in the penitentiary and pedagogical vocabulary.

The terminological construct "correction of convicts" entered the scientific apparatus of penitentiary pedagogy in 1997 in connection with the adoption of the Penal Code of the Russian Federation. Article 1 of the Penal Code of the Russian Federation fixes correction of convicts as q purpose of the Russian penal legislation and Article 9 defines its con-

tent: correction of convicts involves formation of a respectful attitude towards a person, society, work, norms, rules and traditions of human community and promotion of law-abiding behavior. From a pedagogical point of view, correction is considered as a goal, process and result. A convict is perceived as an object of pedagogical influence that leads to creation of a system of respectful relations to society and law-abiding behavior. Let us present a pedagogical analysis of components of the phenomenon under consideration.

Striving for pedagogical support of the process to form in a convict a system of social relations based on respect, correctional institution employees should take into account the essence of the concept "respect" in order to follow clear guidelines in achieving the given goal. In Russian the word "uvazhat'" (to respect) has the same root as the word "vazhnyi" (important). Speaking, for example, about respect for a person, it is worth mentioning that it has 2 two main types: respect as recognition of person's rights and intrinsic value and respect as an assessment of human merits and achievements. In the first case, respect borders on concern (so, out of respect one should not interfere in the personal life of other people, disturb a vacationing person, regardless of his/her status, etc); in the second case, it is supposed to recognize the importance of a person for his/her diligence in achieving a certain goal, for example, respect for a person for professionalism, which means giving importance to his/her knowledge and skills [3, p. 190]. Accordingly, the expected result of correcting the convicted person should be the recognition of his/her personal significance, both of any individual and of society as a whole, as well as a variety of social norms and work. In other words, to form a respectful attitude means to solve an essentially existential task related to giving personal meaning to objects of respect according to the "meaning-for-me" type.

Let us analyze the essence of the terminological construct "stimulating law-abiding behavior" within the pedagogical approach. The semantics of the word "obedience", meaning submission, allows us to consider non-violation of legal norms as a basic indicator of the behavioral symptom complex, mainly in circumstances mediated by the threat of subsequent punishment. At the same time, it should be borne in mind that in conditions under which it becomes possible to avoid punishment, an individual may perceive illegal behavior as acceptable. The source of any obedience is pragmatism, which determines the choice, which usually follows from situational profitability. A system of incentives adequate to pragmatic expectations of a particular convict will serve as an energy source for law-abiding behavior, and social learning – as an impact mechanism, ensuring formation of the ability to represent the influence of external stimuli on person's behavior in the form of a certain model. Social learning helps the convicted person to comply with the requirements or imitate law-abiding behavior even when he/she does not become the object of punishment or encouragement, as he/she monitors appropriate response to others. Thus, a correctional institution employee focused on encouraging law-abiding behavior of convicts should consider this task as a process, the repetitive cycles of which are stimulus, reaction and reinforcement; without them it is barely possible to achieved the stated goal [29, pp. 115–116].

Correction of convicts is considered not only as the purpose of criminal punishment execution, but also as a process, condition and result. The correctional process involves sequent steps in the realization of the goal of acquiring social norms and values; at the same time, there is a resolution of contradictions between insufficient social experience of convicts and requirements of strict adherence to social norms that arise in new circumstances, mediated by the influence of external and internal conditions. As a state, correction reflects a fragment of the convicted person's conscious rejection of antisocial, including criminal, ideas, comprehension of the meaning of a law-abiding life, transition from situational and unconscious adherence to social norms to meaningful legal behavior. Correction should result in a formed system of socially approved attitude of the convicted person to the surrounding reality.

Within the limits of pedagogical possibilities, correction of convicts is provided by means of re-education, implemented in the

aspect of re-socialization in conditions of the educational system of a correctional facility.

In relation to convicts, education has its own specifics, which led to the inclusion of the special term "re-education" in the vocabulary of penitentiary pedagogy. S.V. Poznyshev and I.Ya. Foinitskii were the first to claim prison education as a priority means of correction, characterize re-education as a "spiritual influence" on "detainees" aimed at developing their "desire to take the path of an honest life" [44, p. 400] and counteract striving for crime [34, p. 158]. They associated solution of these tasks with overcoming egoism, despondency and hopelessness among the prisoners; formation of self-respect and independence to the extent that "everyone's fate is as far as possible in their own hands" [43, pp. 400–402]; and appearance of gratitude for the kind attitude of others and satisfaction from a quiet life [34, p. 158]. Developing the ideas of his predecessors, A.S. Makarenko also placed special emphasis on the formation of "real qualities of people who will come out of our pedagogical hands" [27, p. 62].

In accordance with these scientific judgments, the essence of re-education should be considered as a purposeful specially organized pedagogical interaction between correctional officers and convicts to erase negative personal traits formed under the influence of adverse factors and acting as prerequisites for illegal behavior, and form positive ones, incompatible with a criminal lifestyle. Personal qualities (traits) are understood as a set of individual characteristics, the nature of which has a hereditary or acquired – socially conditioned character. Personal qualities reflect the integral characteristic of its originality, a stable typological characteristic of personality [4, p. 52]. They can transform and change during the course of person's life. Personal traits as a set of attributes of a person affect his/her social status, behavioral attitudes, direction of acts, well-being, reputation, and predisposition to specific activities. Examples of positive personal qualities are independence (propensity to initiate, develop and implement person's own plans; ability to make independent judgments), kindness (active participation to a person who finds him/herself in a difficult life situation; focus on helping people in need without claims to gratitude in return), diligence (positive attitude to work; tendency to work hard; getting satisfaction from the process and results of work); honesty (tendency to statements corresponding to real facts and phenomena, his/her thoughts and beliefs), ambition (tendency to achieve the set goal; readiness to overcome the circumstances that prevent its implementation), responsibility (person's conscious attitude to his/her actions, tendency to see the causes of what is happening in a person's soul), discipline (voluntary conscious observance of moral norms and established order), law-abiding behavior (unquestioning obedience to legal norms), etc.

We share the scientific idea that criminogenic qualities of a person manifest themselves in certain inclinations, distinguished by the degree of personal acceptability of a criminally punishable way of behavior and its conditionality by the value-semantic and emotional maturity of an individual (A.N. Pastushenya) [31, pp. 11–12]; individuals acting as carriers of certain negative inclinations have a potential orientation to commit crimes, intentional or negligent, of a certain type (Yu.M. Antonyan) [2, pp. 13–26]. Accordingly, we can assume that against the background of individuals' acceptability of criminal behavior, the presence of a number of individual personal qualities or their totality may indicate potential readiness of these qualities carriers to commit certain crimes. For example, people who are characterized by such qualities as laziness (preference for an independent and enjoyable pastime that excludes work activity, idleness), greed (person's excessive desire to appropriate as many different benefits as possible, both material and spiritual), envy (negative attitude towards people who have any benefits or opportunities that an envious person is deprived of, but strives for) may be inclined to commit crimes against property. It is also obvious that an individual with such traits as aggressiveness (preference for the use of violent means to achieve person's goals), cruelty (behavior that deliberately causes pain or distress to people or animals), misanthropy (dislike or hatred of other people; expression of contempt for social norms and traditions), etc., is more predisposed to com-

mitting crimes against human life and health.

In correctional facilities, re-education has a certain functional purpose, which consists in encouraging convicts to overcome their own negative personal manifestations and develop socially approved qualities and abilities; orienting convicts to eliminate inconsistencies in the value system reflecting their attitude to themselves, people around them, social norms, etc.; helping convicts overcome external and internal factors of personal deformation. Implementing these functions, re-education acts as a significant component of resocialization of convicts.

Russian scientists and public figures took a keen interest in the problem of resocialization of convicts at the beginning of the 21st century, when the reform of the penal system acquired a pronounced humanistic orientation. Serious scientific works revealed the interdisciplinary nature of the phenomenon under consideration, substantiated the logic and justified different approaches to interpreting the term "resocialization".

The analysis of dissertation studies devoted to the problem of resocialization of convicts shows that with certain existing differences in this concept interpretation, they are united by a common feature indicating resumption or repetition of the socialization process [29, p. 68]. When formulating resocialization goals, many scholars emphasize aspiration to social regularity, "achievement of law-abiding behavior presupposing person's compliance with legal norms" (A.V. Pishchelko) [32, p. 276]; convict's acceptance of "minimal and sufficient" values and social norms (A.V. Chernysheva) [47, p. 27], "acquisition of social values, norms, knowledge, experience, abilities, as well as creation of conditions necessary and sufficient to form behavioral models in a minor, including key elements of institutional requirements and prescriptions (M.N. Sadovnikova) [37, p. 11], "achieving social responsibility for one's behavior and life in society without violating laws" (N.V. Andreev) [1, p. 7].

Characterizing the pedagogical aspect of resocialization, it should be noted that it consists in correcting person's socialization, his/her social attitudes and beliefs formed as a result of inadequate perception of social relations [36, p. 21]. If in the socialization processes the development of a personality is of priority importance, then in the resocialization one it is the correction of person's deformed worldview, which promotes development of the individual and, at the same time, favors his/her integration into society.

As a pedagogical term, "correction" (from Latin correctio – correction) is applied to people with disabilities of physical development and/or social behavior [33, p. 13]. As for persons convicted of committing crimes, pedagogical correction is suitable for different types of deviations that are not so much pathological in nature as formed during improper influence in the circumstances of an unfavorable social environment. Such deviations may include certain character flaws caused by deformity of the worldview and underdevelopment of the emotional-volitional sphere.

Deformity of the worldview manifests itself in certain defects that have a bright degree of severity. These include social ignorance, indifference, social infantilism, nihilism, cynicism, etc. Social ignorance consists in a lack of awareness necessary for normal functioning in society. Bearers of social ignorance hardly understand social relations and processes; they lack a clearly defined social position. Social indifference is expressed in contemplative indifference and passivity in situations requiring expression of a personal attitude to ongoing social events and phenomena; it is characterized by adherence to the fatalistic cliche "if it is destined, it will come true" and distrust in person's possibilities and abilities to change unfavorable circumstances of life. They rely on luck in their pursue of goals.

Social infantilism manifests itself in the gap between biological and socio-cultural development, in which the convict, on the one hand, claims to possess certain rights and freedoms inherent in an adult, and on the other hand, refuses to recognize the need to comply with the status of an adult in matters of fulfilling established duties. Social nihilism is expressed in the denial of social norms in general, which includes disdain for social values, traditional ideals, social structure, social institutions, etc. Social cynicism is characterized by the demonstrativeness in expressing a disdainful attitude towards generally ac-

cepted norms of morality and law; orientation towards the "any means are good" attitude, which does not exclude violation of criminal law norms.

Underdevelopment of the emotional-volitional sphere is manifested, first of all, in emotional tension, which includes a set of experiences that reduce the emotional background and motivational sphere of a person. This condition is often accompanied by a feeling of helplessness and person's own uselessness in certain life circumstances; it can lead to aggressiveness and misanthropy [46].

In pedagogical practice, overcoming these defects is associated with pedagogical correction focused on displacing certain personal defects while simultaneously developing personal qualities in the convict that contribute to increasing his/her own self-esteem. The main general pedagogical method of correction is to create a correctional and developmental environment where convicts can realize themselves, while the result of correction is to "even out" convicts as individuals. Those engaged in pedagogical correction programs can "even out", that is, become the same as non-convicted, law-abiding people [18, p. 203].

A correctional and developmental environment includes a certain list of elements that determine activities of educators and convicts aimed at displacing certain personal defects. It is a complex, systemic, variable, changing mechanism of continuous pedagogical assistance to people with developmental disabilities, acquiring social competence in special classes and constructive communication, formation of mobility and social activity. The basis of a correctional and developmental environment in a correctional institution is formed by basic correctional programs and interaction with external social institutions.

Specific features of a correctional and developmental environment are the following: activation of the convicts' desire to become law-abiding, like people around them; displacement of criminal ideals and values; awakening of emotional experiences about universal phenomena and facts; preparation of convicts to overcome psychological barriers that prevent productive existence in the social space.

Successful solution of pedagogical tasks to resocialization of convicts is largely determined by the functioning of the educational system. Having introduced this terminological construct into the scientific circulation of penitentiary pedagogy, M.P. Sturova defined the educational system of a correctional institution as "direct and indirect educational relations and connections of elements that make up and form integrity, including both spiritual and subject-practical activities of the educated and educators, designed to ensure a positive change of convicts" [41, p. 10].

Developing M.P. Sturova's scientific views on the structure of the correctional institution's educational system, S.A. Vetoshkin included the following components: target, indicating the goal, the entire pedagogical process strives to achieve; content, reflecting a variety of pedagogical tools, principles and methods used; activity, ensuring educator-student interaction, organization and forms of this interaction, as well as principles to manage the educational process; result, helping evaluate effectiveness of the current system. The scientist notes that the listed components allow only in general terms to schematically create an algorithm for practical activities to correct convicts; the problem lies in "concretizing these components, filling them with content that allows organizing an effective correction system" [5]. Since the penitentiary educational system functions in specific conditions, such as closeness of a correctional institution, strict regulation of educational work, high concentration of persons with a variety of pronounced deviations, it differs significantly from other educational systems. The main difference between the educational system of a correctional institution, in our opinion, lies in designating the vector of its development, which should be aimed at creating a correctional and developmental environment.

There is a close relationship between key terms of penitentiary pedagogy. It consists in the fact that the content of the term "correction" details the criminal punishment execution purpose and, thus, specifies key directions of re-education of convicts as an important factor in their re-socialization. In turn, the effectiveness of resocialization of

convicts is largely determined by the development vector of the correctional facility educational system.

A significant form of penitentiary and pedagogical knowledge is the regularities that make it possible to understand the nature of pedagogical reality, find true foundations of pedagogical activity, and discover stable recurring connections operating in it. The connections recorded in the patterns always have a causal character. These are, for example, links between the pedagogical methods used in the correctional process and the results obtained; the degree of complexity of pedagogical requirements and the quality of their assimilation by convicts; the system of pedagogical means and the time and effort spent by educators on achieving certain results, etc. In penitentiary pedagogy, patterns mainly show connections between specially created or already existing circumstances and the results achieved by correction of the convicted person. The importance of regularities lies in the fact that they define guidelines that allow ensuring the effectiveness of the correctional process in accordance with certain foundations.

An absolute requirement for a research scientist who identifies a particular pattern is the presence of a sufficient level of proficiency to conceptualize everyday reality in certain connections. Presentation of a new pattern is based on the results of research work, which must be approved and accepted by the pedagogical community. This provision also applies to laws of penitentiary pedagogy, which are subject not only to identification and description, but also to theoretical justification and confirmation with the help of empirical methods. The basic criterion to measure the pattern effectiveness is its reproducibility in the same type of situations, that is, manifestation in the pedagogical activity of any correctional institution employee; mandatory; and independence from individual abilities and characteristics of participants in the correctional process (except in cases when certain abilities and features are included in the described pattern as a special object).

A descriptive format that provides verbal presentation of information about non-random dependencies between phenomena or processes is considered sufficient to represent a pattern in penitentiary pedagogy. Rigid mathematical confirmation in relation to laws of this branch of science is not imperative in view of the complexity and versatility of phenomena of penitentiary and pedagogical reality, significantly narrowing the possibilities of quantitative confirmation. In this regard, it is worth considering V.V. Krayevskii's statement that the use of quantitative methods in pedagogy "is limited by the specifics of the humanitarian sphere of scientific knowledge, which in many cases makes the complete quantitative certainty of the results obtained unattainable" [22, p. 244]. Developing this position, V.V. Krayevskii pays special attention to the application of a qualitative approach, according to which regularity is confirmed by generalizing ideas from the collected empirical data, and organization of the data is aimed at obtaining a holistic picture [22, p. 245]. He emphasizes the need to achieve a balance between mathematical and qualitative approaches in proving patterns.

The correctional process in penitentiary institutions correlates, first of all, with general pedagogical laws. Repeatedly justifying and defending this point of view, A.S. Makarenko notes that "education should be guided by one system of laws", regardless of whether it is carried out in relation to "good" people or offenders [27, p. 12]. At the same time, the patterns reflecting the most stable tendencies of education as a social phenomenon are refracted through the prism of the specifics of the pedagogical process in correctional institutions and acquire a specific content determined by specific research objectives. Therefore, for penitentiary pedagogy, both general pedagogical patterns and patterns related to its own sphere are important.

In penitentiary pedagogy, a number of authors have presented formulations of certain patterns stating conditions and circumstances to achieve stable success of the correctional process. Following the strict scientific requirement imposed on the regularity, we will consider a group of regularities, theoretically proven and confirmed with the help of quantitative and qualitative methods in the dissertation research of the Doctor of Sci-

ences (Pedagogy) S.A. Vetoshkin. He identified and scientifically substantiated the following patterns: 1) a pattern confirming the dependence of successful correction of convicts on pedagogical factors: proficiency level of penitentiary staff, availability of material resources designed to ensure the educational process (interest groups, clubs, etc.); 2) a pattern reflecting the conditionality of the correctional process effectiveness by the degree of the penitentiary institution closeness (prevention of the penetration of alcoholic beverages, drugs, prohibited items, and the spread of negative information, as well as occurrence of conflict situations, etc.); 3) a pattern that fixes the dependence of results of educational work with convicts on correctional facility employees' capabilities and desire to organize effective pedagogical activities. If such activity is neglected, then, according to S.A. Vetoshkin, the reverse process occurs: convicts negatively affect employees by imposing their own rules of behavior, slang words and habits [6]. In this article, we leave open a list of patterns significant for penitentiary pedagogy, limiting ourselves to the one, scientifically proved.

Regularities of the correctional process course create a certain system of connections, the practical implementation of which should contribute to its success. This, in turn, makes it possible to determine basic and specific principles that are important for solving theoretical and practical problems of penitentiary pedagogy. The principles are designed to succinctly express basic conceptual ideas on the basis of which the communication of all subjects of pedagogical interaction unfolds and the complex of its components functions: forms, content, methods and techniques. The correctional process requires, first of all, implementation of general pedagogical principles recognized today in the pedagogical community: expediency and purposefulness, unity of consciousness and behavior, combination of pedagogical leadership with initiative and self-activity of the educated, pedagogical optimism, differentiation and integration, complexity, continuity, cultural conformity, combination of demands with a humane attitude towards convicts; reliance on their positive quality; taking into account the age and individual characteristics of the convicted person, etc.

Along with the above general pedagogical principles, the correctional process, having its own characteristics, needs implementation of special principles. There are also different approaches to defining principles in penitentiary pedagogy. Some authors have achieved real undeniable results in correction of offenders; A.S. Makarenko occupies a special place among them. A careful reading and analysis of his article "Methods of organizing the educational process" suggests that A.S. Makarenko's pedagogical system is based on the following interrelated principles: students' inclusion in work, the type and content of which is determined by their own choice, so that "everyone can find something to their liking"; organization of real self-government; ensuring mutual responsibility; provision of discipline and the "correct" regime; organization of a pedagogical center, where a "teacher-head should always communicate, without waiting for special meetings" and without "special subordination"; encouraging the team to be attentive to the newly arrived, whose admission procedure "should be thought out and prepared by the authorities, teaching staff and the council of commanders in all the details and to the end"; organization of cultural work based on the functioning of circles and club organizations visited voluntarily with the right to leave "at any time", etc. [27, pp. 267–329].

S.A. Vetoshkin singles out crucial principles of pedagogical organization of the correctional process in modern penitentiary institutions, such as functioning of a single team (employees and convicts); adequate response of the administration to convicts' actions; expanded stimulation of convicts' behavior [5]. Modern scientific research substantiates special principles concerning certain aspects of educational work with convicts, including moral education, re-socialization, etc. For example, L.V. Kovtunenko was the first to identify principles of resocialization of juvenile convicts in the pedagogical environment, such as variability (creation of variable zones of the pedagogical environment; variations in the choice of forms, methods, means to meet convicts' needs and interests) and co-development of

the pedagogical environment and the juvenile convict (relationship, interdependence of the development of juvenile convicts and pedagogical environment) [20, p. 10]. Legal re-socialization of juvenile convicts includes the following principles: actualization of convicts' penitence, formation of anti-criminal stability, enrichment of subjective legal experience, constructive response to the achievements of legal re-socialization, stimulation of self-development, social adequacy, and dialogue interaction [29, p. 188]. E.V. Zautorova substantiates principles of moral and aesthetic education of convicts, attributing to them a personally significant dominant, accessibility of perception of works of art, activation of empathy in the process of familiarization with art, actualization of the situation on the basis of artistic material, aestheticization of the environment of the institution through the inclusion of convicts in artistic and creative activity and reflexivity [15, p.17].

The variability of approaches in the approval of certain groups of principles is caused by the multidimensional nature of the tasks being solved in the field of penitentiary pedagogy. The variety of research directions determines emergence of new principles, with the help of which penitentiary pedagogy appears not only as a research field of knowledge, but also as a sphere that transforms correctional reality, designating the direction of penitentiary and pedagogical activity, prescribing certain guidelines, with which correctional officers should correlate organization of the process of re-education of convicts and search for ways to optimize it. It should be borne in mind that a requirement can be accepted as a principle, if it is based on a confirmed pattern and does not depend on situational circumstances. While a pattern is confirmed in the course of the study of penitentiary and pedagogical reality, principles, being regulatory prescriptions, are proposed as derivatives of a certain pattern, that is, they act as an imperative adequate to a particular pattern. The principle effectiveness is largely determined by its correlation with positive pedagogical experience, both past and present; with orientation to the penal policy trends existing at a certain historical stage and the general state of penitentiary reality.

To concretize the ways to solve problems of re-education of convicts and detail pedagogical actions accompanying the correctional process, such a form of knowledge as a pedagogical condition is used. Pedagogical conditions are external circumstances, factors that have a significant impact on the course of the pedagogical process, to some extent consciously constructed by the educator, assuming, but not guaranteeing a certain result of the process [4, p. 112]. The following groups of pedagogical conditions are established in penitentiary pedagogy: organizational and pedagogical, whose main function is to manage the procedural aspect of the pedagogical system; psychological and pedagogical conditions aimed at organizing such measures of pedagogical interaction that affect the personal aspect of the pedagogical system; socio-pedagogical conditions integrating social (household, labor, leisure, valeological, post-penitentiary) and pedagogical (legal, educational, social) factors of successful educational work [6, p. 7].

The analysis of texts of more than 50 doctoral and candidate dissertations devoted to problems of penitentiary pedagogy show that in most of them pedagogical conditions are fixed as significant circumstances in solving the tasks set. A number of authors, including S.A. Vetoshkin [6], I.D. Zharkov [13], S.Yu. Zhidko [14], S.I. Zlobin [16], L.V. Kovtunenko [21], M.N. Panchenko [30], devoted their dissertations to identification and justification of certain pedagogical conditions against the background of identification of external factors that significantly affect the process to form a particular phenomenon under study.

Pedagogical models are other significant forms of penitentiary and pedagogical knowledge. They are "artificially created objects in the form of schemes, physical structures, sign forms, or formulas, which, being similar to the object under study, or phenomenon, display and reproduce in a simpler form the structure, properties, relationships between elements of this object" [12, p. 22]. The modeling method allows us to create and reproduce a model using logical constructions in a generalized form, that is, an analogue reflecting the structure, properties, relationships and relations between elements of the phenomenon

under study (V.V. Kraevskii, V.M. Monakhov, and others). Pedagogical modeling gives completeness and representativeness to the object under study. It has the ability to develop a holistic view of the content and final results of a particular pedagogical process. V.S. Il'in and V.M. Monakhov call basic requirements for the model: it should reflect the integrity of the process or phenomenon; give a description of the conditions and means of its flow; be structurally constructed [17, p. 13–14; 28, p. 75–89]. Pedagogical models are assigned, first of all, informative functions, namely, illustrative, translational, explanatory, predictive [12, pp. 446–447].

A.N. Dakhin suggests the following classification of models, referring to their main types: predictive, designed for optimal allocation of resources and concretization of goals; conceptual, based on the information base and the action program; tool, acting as a tool for performing and teaching educators to operate with pedagogical tools; monitoring, used to provide feedback and create ways to adjust probabilistic deviations from expected results; reflexive, aimed at developing operational pedagogical measures in adverse situations [12, p. 12–15].

In penitentiary pedagogy, special attention has recently been paid to modeling due to the increase in the theoretical and practical levels of development of penitentiary science in general. The theoretical aspect is connected with idealization, with the help of which a clear designation of the components of the simulated objects is carried out, and the practical one is connected with experimental verification of logical conclusions.

Penitentiary pedagogy, being a means of pedagogical reflection on the correctional process, primarily develops in accordance with public requests for applied research focused on solving specific tasks. As one of the examples of a pedagogical model, the model of an educational center created in line with the reform of the penal system can be attributed. This model includes targeted, methodological and content components, which together are designed to ensure continuity and consistency of social, psychological and educational work with minors from the moment of their detention to the moment of release, and create a holistic effective system of preparing convicts for release, etc. [35, p. 29].

The study of doctoral dissertations determining development of penitentiary pedagogy at the present stage allows us to state that almost each of them presents models of the studied pedagogical processes and phenomena. Such models do not only describe penitentiary and pedagogical reality, but also highlight essential components, stages and interrelations between them. There are the following pedagogical models: the prognostic socio-pedagogical model to modernize a correctional institution (N.S. Fomin, 2005) [45], the model of educational process humanization in penitentiary institutions (A.G. Slomchinskii, 2009) [39], the model for designing education at a university in a correctional institution (N.Yu. Volova, 2011) [10], the conceptual and methodological model of the pedagogical gender system for forming spiritual and moral values of juvenile convicts (A.V. Vilkova, 2016) [7], etc.

Key forms of penitentiary and pedagogical knowledge *include pedagogical concepts*, which are complex purposeful, dynamic systems of fundamental knowledge about pedagogical phenomena, fully and comprehensively revealing their essence and content. One of the fundamental concepts that determine priority areas of research in the field of penitentiary pedagogy at different stages of its development is the Concept of educational work with convicts in the conditions of reforming the penal system (2000), the Concept for the development of the penal system of the Russian Federation up to 2020 (2010), the Concept for the development of the penal system of the Russian Federation for the period up to 2030, etc.

It can be stated that in modern doctoral dissertations of penitentiary orientation, pedagogical concepts are presented, including research ideas in the form of a certain theoretical structure with an inherent clearly expressed orientation and logical structure. A number of dissertations in the very names of the topics contain the word "concept", offering a complex of scientific knowledge about the object under study, designed in a special way. We can mention the following

examples: the concept for forming spiritual and moral values of female juvenile convicts (A.V. Vilkova) [7], the concept for social support of convicts in a correctional institution (V.V. Vinogradov) [8], the concept for resocialization of juvenile convicts in the pedagogical environment of a juvenile correctional facility (L.V. Kovtunenko) [20], etc.

The leading role in the hierarchical structure of penitentiary and pedagogical knowledge belongs to theories that contain a set of proven provisions and reveal the essence and interrelationships of various pedagogical properties, processes and phenomena. In most cases, presentations of newly proposed pedagogical theories are accompanied by the consideration of a special set of interrelated terms, patterns, principles and models that allow us to accurately, holistically, deeply and consistently illuminate and explain significant fragments of pedagogical reality; it is these fragments that are subjects of various theories. The listed elements make up the minimum set of components required for any pedagogical theory. The variable part of the theory may include pedagogical conditions, methods, technologies and other means designed to improve pedagogical reality and solve emerging problems more productively.

At first glance, there is a lot in common between a concept and theory: both forms in terms of content should be consistent with the logic of the development of pedagogical science in general and the direction being studied, in particular; contain a sign of scientific novelty; be suitable for effective use in mass practice [48, p. 4]. At the same time, they are different forms of scientific knowledge. The key difference is that many concepts can be built on the basis of one theory, each of which is designed to concretize a certain side of the theory.

Development of the theory should not become an end in itself; any theory can be considered effective if "practice requires it and it is conditioned by practice"; "pedagogical theory is the theory of pedagogical practice" [22, p. 91]. Emergence of a new theory is determined by certain factors. According to V.V. Krayevskii, they are the change in trends in the development of society and the change of ideological guidelines; the gap between goals and real results of the pedagogical process; the logic of the existing pedagogical theory development [22, pp. 91–92]. So, with regard to the penal system, it can be argued that the trend of 1990s to move away from rigid authoritarian schemes of re-education of convicts determined the public demand for theories that consider and construct significant phenomena of the correctional process in line with humanistic ideas. The theories of personality-oriented education of the cultural type by E.V. Bondarevskaya, educational systems by L.I. Novikova, cultural and historical pedagogy by E.A. Yamburg; educational triumph by B.S. Gershunskii; educational systems by L.I. Novikova, cultural and historical pedagogy by E.A. Yamburg; educational triumph by B.S. Gershunskii; the system-synergetic theory by N.M. Talanchuk, etc. are the most popular.

Having studied monographs and doctoral dissertations devoted to penitentiary and pedagogical problems, we can state that modern scientists make a significant contribution to enriching existing pedagogical theories with the penitentiary context. Thus, M.P. Sturova facilitated the development of L.I. Novikova's theory of educational systems [41]; V.M. Litvishkov expanded the theory of creating a children's team by A.S. Makarenko, taking into account the specifics of modern correctional institutions [24]; N.S. Fomin supplemented the theory of pedagogical support by O.S. Gazman [45], etc.

Conclusion

The article presents a list of key forms of scientific penitentiary and pedagogical knowledge, including pedagogical terms, patterns, principles, conditions, models, concepts and theories. Scientific forms of penitentiary and pedagogical knowledge are used primarily in the professional environment of scientists and correctional officers. They are the result of the formation of penitentiary pedagogy as an independent branch of science with its own strictly designated subject, developed methodology and generally accepted terminological apparatus. Scientific forms of penitentiary and pedagogical knowledge appear to be a certain structure created as a result of the activities of sever-

al generations of penitentiary scientists who have formed scientific traditions and schools. The proposed structure of the main forms of penitentiary and pedagogical knowledge is based on the analysis and generalization of data contained in sources of methodological information, and the considered forms make it possible to summarize existing information about penitentiary and pedagogical reality.

The presented list of forms is not exhaustive, is conditional and can be supplemented. Forms that are not traditionally considered as the main ones are left outside of this study; significant events, subjective author's judgments, conclusions, comments, etc. can be attributed to them. Naming and describing the presented forms, we were guided by well-established methodological approaches to their selection, taking into account objectively existing relationships between them.

Expanding boundaries, as well as deepening and changing meanings of penitentiary and pedagogical knowledge can occur as a result of new scientific research, organization of polemics, discussions, etc. Scientific community's approval and acceptance of the information contained in this knowledge is a universal indicator of the truth of penitentiary and pedagogical knowledge, regardless of its form. The aspects considered in the article allowed us to identify a new problem field of research, which focuses on its continuation in the aspect of description, justification and structural representation of not only the main, but also secondary forms of penitentiary and pedagogical knowledge, as well as a more systematic and detailed description of each type.

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INFORMATION ABOUT THE AUTHOR

OKSANA B. PANOVA – Doctor of Sciences (Pedagogy), Associate Professor, professor at the Department of Legal Psychology and Pedagogy of the Psychology Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, xenia-vipe@mail.ru, https://orcid.org/0000-0002-6096-2581

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IN MEMORY OF D. V. SOCHIVKO

Life Path and Activity of a Penitentiary Psychologist, Doctor of Sciences (Psychology), Professor, Colonel of the Internal Service Dmitrii V. Sochivko*

OLGA I. SOCHIVKO
Candidate of Sciences (Psychology), Lecturer at the Department of Penitentiary Psychology and Penitentiary Pedagogy of the Kuzbass Institute of the Federal Penitentiary Service of Russia, Novokuznetsk, Russia, sochivko_o@mail.ru

DMITRII M. PLOTKIN
Candidate of Sciences (Law), Honorary Employee of the Prosecutor's Office of the Russian Federation, retired major case investigator, member of the Union of Writers of Russia, Ryazan, Russia, plotkindm@yandex.ru

A person remains alive in the hearts of his/her loved ones, students, books written and deeds done ... The memory of scientific discoveries, research and scientific works of Dmitrii V. Sochivko, professor at the Department of General Psychology of the Academy of the Federal Penitentiary Service of Russia, Doctor of Sciences (Psychology), Professor, will live, as long as the science of psychology is alive. The role of this scientist and his scientific contribution are truly immeasurable, his intellectual and personal qualities are remembered by everyone who communicated with him.

D.V. Sochivko was born on August 15, 1959 in Leningrad. He graduated from the Psychology Department of the Leningrad State University named after A.A. Zhdanov. In 1984, under the guidance of V.A. Yakunin, he defended his candidate dissertation on the topic "Research of individual styles of cognitive activity" (specialty 19.00.07 – pedagogical, age and child psychology) at the same university. This was the first step in his activity as a teacher, he devoted 14 years of his creative life to his native university.

In 2003, he defended his dissertation for the degree of Doctor of Sciences (Psychology) on the topic "Psychodynamics of personality in extreme conditions of life" (specialty 19.00.06 – legal psychology) at the Academy of Management of the Ministry of Internal Affairs of Russia. The dissertation was based on the generalized experience gained during the years of service in the penal system, filling the position of senior psychologist in the high-security correctional facility in the Pskov Oblast.

Dmitrii Sochivko showed his talent as a scientific practitioner who tested his theories in practice. His intense scientific activity resulted in numerous publications, such as monographs, textbooks, articles; his students wrote and successfully defended 11 candidate and doctoral dissertations.

The name of D.V. Sochivko is known to everyone who has ever shown interest in psychological science, his theories and developments are widely used for new research. He communicated

* D. V. Sochivko was a member of the Editorial Board of the journal «Penitentiary Science» (up to August 2019 «Institute Bulletin: Crime, Punishment, Correction») from January 2018 to October 2021.

and creatively interacted with the most famous scientists in the field of psychology and pedagogy, in particular, L.M. Vekker, V.A. Hansen, M.G. Debolskii, V.N. Loskutov, A.V. Pishchelko, G.V. Sukhodolskii, V.A. Yakunin and others.

Dmitrii Sochivko had the honor of creating a new direction in psychological science and founding a scientific psychological school of the theory of modern psychodynamics of personality. His interests extended to scientific areas, such as social, legal, penitentiary and clinical psychology, Orthodox psychotherapy, etc.

D.V. Sochivko worked at the Academy of the Federal Penitentiary Service of Russia for more than 20 years and was awarded medals of the Federal Penitentiary Service of Russia "For Distinguished Service" of degrees 1, 2, and 3 for his truly titanic scientific and teaching activities.

Thanks to his initiative, a public research laboratory "Criminal Destructiveness of Personality" was created at the Academy of the Federal Penitentiary Service of Russia and the scientific journal "Applied Legal Psychology" was opened, which is included in the list of peer-reviewed publications of the Higher Attestation Commission under the Ministry of Education and Science of Russia, the annual methodological seminar "Topical problems of modern penitentiary and legal psychology" was organized at the Institute of Psychology of the Russian Academy of Sciences.

Dmitrii Sochivko organized a scientific and practical conference at the Academy of the Federal Penitentiary Service of Russia and a scientific and practical seminar at the Institute of Psychology of the Russian Academy of Sciences "Where childhood goes: problems of suicidal behavior among young people". He offered Candidate of Sciences (Law) Dmitrii Plotkin to make a report on the most relevant topic on children' suicides influenced by the Internet. This problem drew attention of the country's leadership, and the Russian President Vladimir Putin instructed the Government to address it.

In 2021, D.V. Sochivko became the winner of the All-Russian best scientific book contest, having presented the monograph "Existential psychodynamics" (Moscow; Ryazan: Vysshaya shkola psikhologii; Akademiya FSIN Rossii, 2020. 224 p.).

The scholar's attitude to religion is worth noting. This deep feeling always accompanied him and was carefully nurtured at any stage of his life, regardless of external circumstances.

Dmitrii Sochivko left a bright memory of himself. He dedicated his life to high ideals of science and serving public interest; his attention and empathy for people deserves respect. D.V. Sochivko's ideas live on in activities of his students and followers. The theory of modern psychodynamics of personality, his main scientific discovery, embodying his extensive knowledge, creative energy and spiritual power, is of great interest and is still developing nowadays.

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